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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

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LOK SABHA

The following Bills were introduced in Lok Sabha on 20th December, 1996:—

BILL NO. 52 OF 1996

A Bill further to amend the Constitution of India

BE it enacted by Parliament in the Forty-seventh Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 1996. Short title.

2. Article 370 of the Constitution shall be omitted. Omission of article 370.

STATEMENT OF OBJECTS AND REASONS

Article 370 has no meaning in the present situation. The State of Jammu and Kashmir has become part and parcel of India. Number of elections held during the last 46 years have proved that Jammu and Kashmir is as good a State of India as other States are. The State has lost many opportunities due to this article as big industrialists are not interested in setting up industries in the State under the present situation. The State has thus remained industrially backward. This article gives Pakistan an opportunity to raise the Kashmir question on various international forums. The people of the State are interested in removing this article immediately so that they can feel proud of being part and parcel of India.

Hence, this is the right time to omit this article so that the people of the State can also enjoy the fruits of progress of the country as are being enjoyed by the people of other States.

Hence this Bill.

NEW DELHI;
July 11, 1996

KASHIRAM RANA

BILL NO. 104 OF 1996

A Bill further to amend the Representation of the People Act, 1951.

BE it enacted by Parliament in the Forty-seventh Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Representation of the People (Amendment) Act, 1996.

(*2*) It shall come into force at once.

43 of 1951.

Insertion of new section 63.

2. After section 62 of the Representation of the People Act, 1951, the following section shall be inserted, namely :—

Issuance of Photo identity cards.

63. (*1*) **The Election Commission shall issue photo identity cards to all eligible voters to enable them to vote at all elections.**

(*2*) No person shall be allowed to vote at an election unless he produces before the presiding officers the photo identity card issued to him by the Election Commission.

STATEMENT OF OBJECTS AND REASONS

At present, photo identity cards are being issued by Election Commission to all eligible voters so as to enable them to vote at elections. In many States the process has been completed and in many States the identity cards are yet to be issued. Presently, there is no provision in the law for issuance of photo identity cards to voters.

The issue of issuance of photo identity cards by the Election Commission of India, becoming a condition precedent for any person to cast his vote, has been attracting the attention of various political parties for quite a long time. The issuance of photo identity cards becomes meaningless if it is not provided in the Act that a voter without an identity card shall not be allowed to cast his vote. The instances of bogus voting and impersonation at the time of polling have been increasing day by day. There is an urgent need to check these malpractices.

The Bill seeks to make suitable amendments to the Representation of the People Act, 1951 with a view to achieving the objective.

NEW DELHI;
August 29, 1996

SATYA PAL JAIN

FINANCIAL MEMORANDUM

Clause 2 of the Bill provides that Election Commission shall issue photo identity cards to all eligible voters for the purpose of voting at all elections. The measure will involve expenditure from the Consolidated Fund of India. It is estimated that an annual recurring expenditure of about rupees One crore is likely to be involved.

A non-recurring expenditure of about rupees one crore is also likely to be involved.

BILL NO. 105 OF 1996

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Forty-seventh Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Constitution (Amendment) Act, 1996.

Amendment of article 16.

2. In article 16, clause (4) shall be omitted.

Insertion of new article 16A.

3. After article 16 of the Constitution, the following article shall be inserted, namely:—

Reservation for socially and educationally backward classes of citizens.

"16A. (*1*) There shall be reservation in appointments of posts in favour of socially and educationally backward classes of citizens in the services under the State.

(*2*) The number of appointments or posts reserved under clause (1) for the socially and educationally backward classes of citizens, shall be in such proportion as their population bears to the total population of the country :

Provided that such number of appointments or posts reserved for them shall not exceed sixty-five percent. of the total number of posts or appointments in the services under the State.

(*3*) Notwithstanding anything in this Constitution, no court shall have any jurisdiction in respect of any reservation made under this article.

Explanation.—For the purposes of this article, the expression 'population' means the population as ascertained at the last preceding census of which the relevant figures have been published.".

STATEMENT OF OBJECTS AND REASONS

The system of reservation of posts and appointments for backward classes has been prevailing in the erstwhile Madras and Mysore States from 1916 onwards. The concept of reservation of posts and appointments for the socially and educationally backward classes of citizens has been enshrined in the Constitution of India as part of social justice. The principle of this reservation as well as percentage thereof has always been subject matter of controversy in the society and the courts. Pursuant to the recommendation of the Mandal Commission, the Central Government made provision for reservation for socially and educationally backward classes of citizens in appointments and posts in the services under the State. However, this issue became subject matter of agitation by other communities and also before various courts. The Supreme Court while upholding the Central Government decision to reserve posts in services for other backward classes, has laid down that such reservation should not exceed 50% of the total number of posts and appointments. Therefore, in view of the judgement, it has become difficult to implement the provisions of reservation for other backward classes in accordance with the recommendation of the Mandal Commission.

Subsequent to the judgement of the Supreme Court, the Tamil Nadu Assembly passed a law prescribing reservation of 69% of the total number of posts and appointments for other backward classes and the law has been given shelter in the Constitution by its inclusion in the Ninth Schedule. This benefit is, however, not extended to the people belonging to other backward classes in other parts of the country and thus they are deprived of their due.

With this in view, the Bill seeks to amend the Constitution with a view to providing for reservation in services under the State for people belonging to other backward classes in accordance with their population and also for excluding the jurisdiction of courts in this matter.

NEW DELHI;
September 16, 1996.

P. KODANDARAMAIAH

BILL NO. 109 OF 1996

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Forty-seventh Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 1996. Short title.

2. After article 16 of the Constitution, the following article shall be inserted, namely :— Insertion of new article 16A.

"16A. Notwithstanding anything in this Constitution, thirty per cent of appointments or posts in services under the State shall be reserved for women.". Reservation of posts for women.

STATEMENT OF OBJECTS AND REASONS

Despite great efforts made to ameliorate the sufferings of women, they continue to remain socially and economically weak. They, therefore, deserve special considerations and facilities for improving the quality of their life. The percentage of women in employment is very low. There is job reservation for Scheduled Castes, Scheduled Tribes and Backward Classes in order to cover the leeway. But no such reservation exists for women, who constitute a large segment of socially and educationally backward population. They are denied social justice.

In order that women may enjoy the fruits of social justice, the job reservation facilities should be extended to women as in the case of other weaker sections of the society.

Hence this Bill.

NEW DELHI;
November 4, 1996.

CHITTA BASU

BILL NO. 108 OF 1996

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Forty-seventh Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Constitution (Amendment) Act, 1996.

Substitution of new article for article 285.

2. For article 285 of the Constitution, the following article shall be substituted, namely :—

Tax on property of the Union by a State or local authority.

"285. Parliament may by law authorise a State or any local authority within that State to levy any tax on any property of the Union subject to such conditions or limitations as may be prescribed by such law.

Explanation.— In this article "local authority" means any municipality, municipal corporation, district-board, panchayat or any such other local authority by whatever name called.".

STATEMENT OF OBJECTS AND REASONS

At present, a number of Public Sector Undertakings belonging to the Central Government, Departmental Organisations, Railways, Defence Instalments, etc. own vast properties in Corporation, Municipal and Panchayat areas all over the country. These properties of the Central Government are exempted from being taxed by the local self Government authorities under article 285 of the Constitution. Although, the infrastructure of the local self Government authorities are fully utilised by the Public Sector Undertakings and Departmental Organisations, they do not pay any taxes on property, as in the case of other property owners. This anomaly requires to be removed.

The Bill seeks to authorise the local self Government authorities to levy taxes on the properties of the Central Government.

NEW DELHI;
November 4, 1996

CHITTA BASU

BILL NO. 113 OF 1996

A Bill to provide for the setting up of a Bank for the purpose of advancing loans to the students for pursuing higher studies.

BE it enacted by Parliament in the Forty-seventh Year of the Republic of India as follows:—

Short title, extent and commencement.

1. (*1*) This Act may be called the Education Bank of India Act, 1996.

(*2*) It extends to the whole of India.

(*3*) It shall come into force at once.

Definitions.

2. In this Act, unless the context otherwise requires,—

(*a*) "Bank" means the Education Bank of India established under section 3;

(*b*) "prescribed" means prescribed by rules made under this Act; and

(*c*) "student" means a person who is pursuing any course of study, including any professional, vocational or research study, in any college or institution or University.

Setting up of Education Bank of India.

3. (*1*) The Central Government shall set up a Bank to be known as the "Education Bank of India" with its headquarter at New Delhi and regional offices in every State and Union Territory.

(*2*) The Central Government shall set up a branch of the Bank in every district of the country.

Board of Directors.

4. (*1*) The Bank shall be managed by a Board of Directors consisting of—

(*a*) Union Human Resource Development Minister	—Chairman
(*b*) Union Finance Minister	—Member
(*c*) Education Minister of each State	—Members
(*d*) Three prominent educationists to be nominated by the Central Government	**—Members**
(*e*) Chairman-cum-Managing Director of a nationalised Bank to be nominated by the Central Government.	—Member
(*f*) Secretary in the Union Ministry of Human Resource Development	—Member Secretary

(*2*) The term of office of the members of the Board of Directors appointed under clauses (*d*) and (*e*) of sub-section (*1*) shall be one year.

Meetings of Board of Directors.

5. (*1*) The Board of Directors of the Bank shall meet at such place and at such time as may be determined by the Chairman to frame out policies of the Bank.

(*2*) The Board of Directors shall meet atleast once in a year.

Functions of the Bank.

6. The Bank shall advance loans to the students to meet the cost of their education.

Application for loan.

7. (*1*) An application for grant of loan shall be made to the concerned branch of the Bank by the student.

(*2*) An application made under sub-section (*1*) shall be disposed of within one month from the date of its receipt.

Loans to be paid to colleges and institutions directly by the Bank.

8. (*1*) The loan shall be payable to every eligible student till he completes the course for which the loan was applied for.

(*2*) The amount of loan shall be equal to the total cost of education which shall include course fees, study materials, hostel fees, if any, and any other related expenditure in connection with the education of the student.

(*3*) The Bank shall make the payment direct to the college or institution where the student whose loan has been sanctioned is pursuing his studies.

Eligibility for loan.

9. (*1*) The following shall be eligible for seeking full amount of loan from the Bank:—

(*a*) students, whose parents cannot afford the cost of higher education and whose annual income from all sources is less than sixty thousand rupees; and

(*b*) meritorious students.

(*2*) A student, whose parents cannot afford the full cost of his higher education, shall also be eligible to secure a loan from the Bank to the extent of the amount he falls short of.

Terms and conditions of sanction and repayment of loan.

10. (*1*) The loan shall be given to every eligible student without any security or guarantee:

Provided that the Bank may demand from the student such details and such documents before sanctioning the loan as may be deemed fit.

(*2*) The loan shall be recovered with simple interest at the rate of three per cent per annum.

(*3*) The terms and conditions of repayment of the loan shall be such as may be prescribed:

Provided that a student shall start repaying the loan two years after he has secured a job in such instalments as may be prescribed.

Loan for research purposes.

11. (*1*) Any student who wishes to take loan from the Bank for research purposes shall apply to the concerned Regional Office of the Bank.

(*2*) The Regional Office of the Bank may, after necessary enquiry, sanction the loan.

(*3*) The terms and conditions of sanction and repayment of such loan shall be such as may be prescribed.

Officers and staff.

12. The Central Government shall appoint such number of officers and staff as may be required for the efficient functioning of the bank.

Branches to function under the control of Regional Office.

13. All the branches of the bank shall be under the control and supervision of the concerned Regional Office.

Representation to Regional Office by aggrieved students.

14. Any aggrieved student may represent to a Regional Office who shall, after considering all aspects of the case, forward their recommendations to the headquarter of the Bank and the decision of the headquarter shall be final.

10 of 1949.

Saving.

15. Nothing in the Banking Regulation Act, 1949, shall apply to the Bank established under this Act.

Power to make rules.

16. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

Majority of the students in our country are not able to pursue higher education due to poor financial conditions of their parents. Although, students are brilliant and want to pursue higher education, poverty comes in the way of their pursuit.

Professional and technical colleges charge exhorbitant fees for admission which the students cannot afford.

With a view to encouraging poor students to continue their education, it is proposed to provide loans on easy terms to them which can be repaid by them after they secure jobs.

Although several banks offer loans for continuing education, such schemes are not attractive and beyond the means of majority of the parents. Therefore, it is proposed to set up a Bank exclusively for the purpose of assisting the students by providing them loans for continuing higher education.

Hence this Bill.

NEW DELHI;
November 4, 1996.

CHITTA BASU

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for setting up of Education Bank of India. Clause 4(d) provides for nomination of three prominent educationists to the Board of Directors of the Bank by the Central Government. Clause 12 provides for appointment of necessary officers and staff for the Bank.

The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is estimated that an annual recurring expenditure of about rupees five hundred crore from the Consolidated Fund of India will be involved.

A non-recurring expenditure to the tune of about rupees two hundred crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 16 of the Bill empowers the Central Government to frame rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 116 OF 1996

A Bill to provide for the welfare of agricultural workers and to regulate their employment and conditions of service and for matters connected therewith.

BE it enacted by Parliament in the Forty-seventh Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (*1*) This Act may be called the Agricultural Workers Act, 1996. Short title, extent and commencement.

(*2*) It extends to the whole of India.

(*3*) It shall come into force on such date or dates as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different States and for different provisions of this Act.

2. In this Act, unless the context otherwise requires,— Definitions.

(*a*) "adolescent" means a person who has completed his fifteenth year of age but has not completed his eighteenth year of age;

(*b*) "adult" means a person who has completed his eighteenth year of age;

(*c*) "appropriate Government" means in the case of a State, the State Government and in the case of a Union territory, the Central Government;

(*d*) "child" means a person who has not completed his fifteenth year of age;

(*e*) "agricultural dispute" means any dispute or difference between employers and employers or between employers and agricultural workers or between agricultural workers and agricultural workers or any dispute raised by a trade union or any recognised organisation which is connected with the employment or non-employment or the terms of employment or the conditions of service of any person.

Explanation.—Where any employer discharges, dismisses, retrenches or otherwise terminates the service of, or denies employment to, an agricultural worker, any dispute or difference between that agricultural worker and his employer connected with, or arising out of, such discharge, dismissal, retrenchment, termination or denial of employment shall be deemed to be an agricultural dispute notwithstanding that no other agricultural worker nor any union of agricultural workers is a party to such a dispute.

(*f*) "agricultural land" means any land used for cultivation or for—

(*i*) farming, including the cultivation and tillage of soil;

(*ii*) dairy farming;

(*iii*) production, cultivation, growing and harvesting any horticultural commodity;

(*iv*) raising of livestock, bee-keeping or poultry farming;

(*v*) any practice performed on a farm as incidental to or in conjunction with the farm operations including any forestry or timbering operations and the preparation for market and delivery to storage or to market or to carriage for transportation of farm products;

(*vi*) fodder or thatching or grass or grazing cattle but does not include any plantation as defined in the Plantations Labour Act, 1951. 9 of 1951

(*g*) "Agricultural Tribunals" means, in relation to any area the Agricultural Tribunal constituted under this Act for that area;

(*h*) "agricultural worker" means a person who follows one or more of the following agricultural occupations as a labourer on hire or in exchange:—

(*i*) farming, including the cultivation and tillage of soil;

(*ii*) dairy farming;

(*iii*) production, cultivation, growing and harvesting of any horticultural commodity; and

(*iv*) raising of livestock, bee-keeping or poultry farming;

(*i*) "Fund" means the Agricultural Workers' Fund established under this Act;

(*j*) "Inspector" means an Inspector appointed under this Act;

(*k*) "prescribed" means prescribed by the rules made under this Act;

(*l*) "Registration Officer" means a Registration Officer appointed under this Act;

(*m*) "Scheme" means the Agricultural Workers' Welfare Fund Scheme framed under this Act; and

(*n*) "Wages" means payment received in cash or in kind or both in cash and in kind, and shall include payment of share of the produce, where prevalent and wages in kind shall include perquisites that a person receives customarily for the work performed such as food grains, cooked meals, fuel, tobacco, housing clothes, shoes and bonus.

CHAPTER II

AGRICULTURAL TRIBUNAL AND OFFICERS

Constitution of Agricultural Tribunals.

3. (*1*) The appropriate Government shall, by notification in the Official Gazette, constitute an Agricultural Tribunal for any area specified there in for performing the functions of the Agricultural Tribunal under this Act.

(*2*) The Agricultural Tribunal shall consist of one member having expert knowledge and experience in agriculture who shall be appointed by the appropriate Government.

Appointment of Registration Officers.

4. (*1*) The appropriate Government shall, by an order published in the Official Gazette,—

(*a*) appoint such officers as it thinks fit, to be the Registration Officers for the purposes of this Act; and

(*b*) define the local limits, within which a Registration Officer shall exercise the powers conferred on him by, or under, this Act.

(*2*) The Registration Officer shall exercise such powers, and perform such functions as may be prescribed.

Appointment of Conciliation Officers.

5. The appropriate Government shall, by notification in the Official Gazette, appoint for any area specified therein any officer to be a Conciliation Officer for performing the functions of a Conciliation Officer under this Act.

Appointment of Inspectors.

6. (*1*) The appropriate Government shall, by notification in the Official Gazette, appoint duly qualified persons to be the Inspectors for the purposes of this Act and define the local limits within which they shall exercise their powers.

(*2*) Subject to such rules as may be made in this behalf by the appropriate Government, an Inspector may, within the local limits for which he is appointed,—

(*a*) conduct such examination and inquiry as he thinks fit in order to ascertain whether the provisions of this Act and of the rules made thereunder are being observed in the case of an agricultural land;

(*b*) enter, inspect and examine any agricultural land or part thereof with such assistants, if any, being persons in the service of Government or local or other public authority as he thinks fit, at any reasonable time for the purposes of carrying out the purposes of this Act;

(*c*) examine any agricultural worker employed therein or require the production of any register or other document maintained in pursuance of this Act and take, on the spot or otherwise statements of any person which he may consider necessary for carrying out the purposes of this Act; and

(*d*) exercise such other powers as may be prescribed.

Facilities to be afforded to Inspectors.

7. Every employer shall afford an Inspector all reasonable facilities for making an entry, inspection, examination or inquiry under this Act.

CHAPTER III

SECURITY OF EMPLOYMENT AND WELFARE

Preference for employment as agricultural workers.

8. (*1*) The employer shall not employ a new agricultural worker unless he has employed all the agricultural workers who had worked at any time during the previous agricultural season.

(*2*) In case of permanent employees preference shall be given to those who have worked earlier.

Explanation.—For the purposes of this sub-section, "permanent worker", in relation to an employer means an agricultural worker whom that employer is bound to employ by custom or contract or who is otherwise eligible to work in the agricultural land of that employer.

(*3*) Notwithstanding anything contained in the foregoing provisions of this section, no employer shall be under an obligation to employ any agricultural worker—

(*a*) who does not offer himself for employment; or

(*b*) who is more than sixty-five years of age; or

(*c*) who is incapacitated and is unable to do the work.

Trade Unions of agricultural workers.

9. (*1*) A trade union of agricultural workers shall be registered and shall carry on its management and activities in accordance with its constitution and the laws applicable to trade unions.

Explanation I.—A trade union means any combination, whether temporary or permanent, formed primarily for the purpose of regulating relations between employees and employers or between employees and employees or between employers and employers and includes any association of two or more trade unions.

Explanation II.—For the purposes of Explanation I, an employee includes any agricultural worker as defined in the Act.

(*2*) The subscription payable by the members of such a trade union shall not be less than twenty-five paise per month per member.

Establishment of Agricultural Workers' Welfare Fund.

10. (*1*) **The appropriate Government may, by notification in the Official Gazette, frame a Scheme to be called the Agricultural Workers' Welfare Fund Scheme for the establishment of a Welfare Fund under this Act, and as soon as the Scheme is framed, a Fund shall be established in accordance with the provisions of this Act and the Scheme.**

(*2*) The Fund shall vest in, and be administered by, a Board constituted under section 13.

(*3*) Subject to the provisions of this Act, the Scheme framed under sub-section (1) may provide for such matters as may be prescribed.

Contribution to the Fund.

11. (*1*) **The appropriate Government shall pay contribution to the Fund in such manner and at such rate as may be prescribed.**

(*2*) The employer shall pay contribution to the Fund in such manner and at such rate as may be prescribed.

(*3*) Each agricultural worker shall also pay contribution to the Fund in such manner and at such rate as may be prescribed.

Power to modify the Scheme.

12. The appropriate Government may, by notification in the Official Gazette make addition to, amend or vary, the Scheme.

Constitution of Welfare Fund Board.

13. (*1*) The appropriate Government shall, by notification in the Official Gazette, constitute with effect from such date as may be specified in the notification, a Board to be called the Agricultural Workers' Welfare Fund Board for the administration of the Fund.

(*2*) The Board shall be a body corporate by the name aforesaid having perpetual succession and a common seal and shall by the said name sue or be sued.

(*3*) The Board shall consist of such number of members as the appropriate Government may determine and the members shall be chosen in such manner as may be prescribed:

Provided that the number of members representing the appropriate Government, the employers, and the agricultural workers shall be equal.

(*4*) The appropriate Government shall appoint one of the members of the board to be its Chairman.

(*5*) The term of office of, and the manner of filling casual vacancies among, the members of the Board shall be such as may be prescribed.

(*6*) The names of the Chairman and the members of the Board, shall be published in the Official Gazette.

(*7*) The Board shall administer the Fund in such manner as may be specified in the Scheme.

Appointment of officers of the Board.

14. (*1*) The appropriate Government may appoint such number of officers as it thinks fit for assisting the Board in the administration of the Fund.

(*2*) The officers appointed under sub-section (1) shall exercise such powers and discharge such duties as may be prescribed.

Directions by the Government.

15. The appropriate Government may give directions to the Board and such directions may include directions relating to the recruitment, conditions of service and training of its employees and the wages to be paid to the employees.

Protection from attachment.

16. (*1*) The amount standing to the credit of any agricultural worker in the Fund shall not in any way be assigned or charged and shall not be liable to attachment under any decree or order of any court in respect of any debt or liability incurred by the member.

(*2*) Any amount standing to the credit of any agricultural worker in the Fund at the time of his death and payable to his nominees under the Scheme shall, subject to any deduction authorised by the Scheme, vest in the nominee and shall be free from any debt or other liability incurred by the deceased or the nominee before the death of such worker.

(*3*) Any amount standing to the credit of a member in the Fund at the time of his ceasing to be an agricultural worker, whether on the ground that he is over sixty-five years of the age or on the ground that he is incapacitated and is unable to work or on any other ground, shall, subject to any deduction authorised by the Scheme, be paid to him and shall be free from any debt or other liability incurred by that member before his ceasing to be an agricultural worker.

Employer not to reduce wages, etc.

17. No employer shall by reason only of his liability for the payment of any contribution to the Fund reduce, whether directly or indirectly, the wages of any agricultural worker to whom the Scheme applies.

CHAPTER IV

HOURS OF WORK AND LIMITATIONS OF EMPLOYMENT AND WAGES

Hours of work.

18. Save as otherwise expressly provided in this Act, no adult agricultural worker shall be required to work for more than eight hours, with half-an-hour rest, in a day and no adolescent or child for more than six hours in a day inclusive of half-an-hour rest.

Extra wages for over-time work.

19. Where an agricultural worker work in any employment for more than nine hours on any day or for more than forty-eight hours in any week, he shall, in respect of such overtime work, be entitled to wages at double the ordinary rate of wages.

Explanation.—The expression "ordinary rate of wages" means the basic wage plus such allowances including the cash equivalent of the advantages accruing through the concessional sale of foodgrains and other articles, as the person employed is, for the time being, entitled to but does not include a bonus.

Daily intervals for rest.

20. The period of work on each day shall be so fixed that no period shall exceed four hours and that no agricultural worker shall work for more than four hours before he has had an interval for rest of atleast half an hour.

Harvesting wage.

21. Wherever harvesting wages are prevalent, the wages shall be paid at the threshing floor on which the threshing takes place and no portion of the produce shall be removed from the threshing-floor without payment of the prescribed wages to the agricultural worker concerned.

Wages payable to agricultural workers.

22. (*1*) Every employer shall pay to every agricultural worker employed by him, for each day of work, the wages notified by the appropriate Government in the Official Gazette.

(*2*) The appropriate Government may, from time to time, by notification in the Official Gazette, fix the rate of wages of casual workers engaged on daily basis either for the whole State or the Union territory, as the case may be, or for any part thereof so as to make a distinction between the monthly and the daily wages.

Enforcement of payment of wages.

23. (*1*) If any employer pays less than the wages notified in the Official Gazette or refuses to pay such wages to any agricultural worker. The agricultural worker, or an official of the trade union of which he is a member, may make an application to the Conciliation Officer for a direction under sub-section (*2*).

(*2*) On receipt of an application under sub-seetion (1), the Conciliation Officer shall, after giving the applicant and the employer an opportunity of being heard and after such inquiry, if any, as he may consider necessary, direct—

(*a*) in the case of a claim arising out of the payment of less than the wages notified in the Official Gazette, the payment to the agricultural worker of the amount by which the wages notified in the Official Gazette payable to him exceeds the amount actually paid by the employer;

(*b*) in the case of a claim arising out of non-payment of the wages notified in the Official Gazette, the payment of the amount of wages to the agricultural worker.

(*3*) If as a result of a direction under sub-section (2) any amount of the wages notified in the Official Gazette, becomes payable to an agricultural worker, the Conciliation Officer may recover that amount from the employer concerned and if such recovery is not possible. the Conciliation Officer shall make a report to the Collector or the Deputy Commissioner, as the case may be, specifying the full particulars regarding the amount due to the agricultural worker concerned and on receipt of such report, the Collector or the Deputy Commiss. ıer, as the case may be, shall proceed to recover the same from the employer concerned as if it were an arrear of public revenue on land and the time limit in such cases shall be fixed by the State Government.

(*4*) The Conciliation Officer shall have such powers, as may be prescribed, to effect the payment of the wages, notified in the Official Gazette, to the agricultural worker.

CHAPTER V

DISPUTES

Settlement of agricultural disputes.

24. (*1*) Where an agricultural dispute exists or is apprehended, the Conciliation Officer may hold conciliation proceedings and shall, for the purpose of bringing about a settlement of the dispute, without delay investigate the dispute and all matters affecting the merits and the right settlement thereof and may do all such things, as he thinks fit, for the purpose of inducing the parties to come to a fair and amicable settlement of the dispute

(*2*) If a settlement, of the dispute or of any of the matters in dispute is arrived at in the course of conciliation proceedings, the Conciliation Officer shall send a report thereof to the Labour Commissioner together with a memorandum of settlement signed by the parties to the dispute.

(*3*) If no such settlement is arrived at, the Conciliation Officer shall, as soon as practicable after the close of the investigation, send to the District Collector or the Deputy Commissioner, as the case may be, a full report setting forth the steps taken by him for ascertaining the facts and circumstances, and the reasons on account of which, in his opinion a settlement could not be arrived at:

Provided that in a case where the agricultural dispute relates to an agricultural land situated within the local limits of more than one revenue district, the Conciliation Officer' shall send the report to the District Collector or the Deputy Commissioner, as the case may be, in whose jurisdiction the major portion of such land is situated.

(*4*) If on a consideration of the report referred to in sub-section (3), the District Collector or the deputy Commissioner, as the case may be, is satisfied that there is a case for reference to an Agricultural Tribunal he may, by order in writing, refer the agricultural dispute to the said Tribunal for adjudication and where the District Collector or the Deputy Commissioner, as the case may be, does not make such a reference, he shall record and communicate to the parties concerned the reasons therefor.

(*5*) Where an agricultural dispute has been referred to an Agricultural Tribunal under sub-section (4), the Tribunal shall hold its proceedings expeditiously and shall, as soon as practicable after the conclusion of the proceedings, but not later than thirty days from the date of receipt of the reference by the Tribunal, submit its award to the District Collector or the Deputy Commissioner, as the case may be.

(*6*) The District Collector or the Deputy Commissioner, as the case may be, shall, within a period of fifteen days from the date of receipt of the award referred to in sub-section (5) cause the same to be published in his office and in the office of the Agricultural Tribunal in such manner as may be prescribed and shall also forward copies of the award to the parties concerned.

(*7*) An award referred to in sub-section (5) shall, subject to any order of the appropriate Government under section 26, become enforceable on the expiry of ten days from the date of its publication in the manner provided in sub-section (6).

(*8*) Every memorandum of settlement referred to in sub-section (2) and, subject to any order of the appropriate Government under section 26, every award of an agricultural Tribunal shall be final and shall be given effect to by the parties to the agricultural dispute.

Appeal.

25. An appeal shall lie to the Agricultural Tribunal against any order passed by a Conciliation Officer under section 24 within a period of thirty days from the date of the order appealed against and the decision of the Agricultural Tribunal on such appeal shall be final.

Reference of dispute by Government.

26. (*1*) Notwithstanding anything contained in section 24, where any agricultural dispute exists or is apprehended, the appropriate Government may, by order in writing and for reasons to be stated herein.—

(*a*) refer the dispute to the Agricultural Tribunal constituted for the area in which the dispute exists or is apprehended for adjudication; or

(*b*) decide the dispute itself and pass in award.

(*2*) Where a dispute is referred to an Agricultural Tribunal under clause (*a*) of sub-section (*1*), the provisions of sub-section (*5*), (*6*), (*7*) and (*8*) of section 24 shall apply as if the reference to the Tribunal were made by the District Collector or the Deputy Commissioner, as the case may be, under sub-section (*4*) of that section.

(*3*) The appropriate Government shall cause every award passed by it under clause (*b*) of sub-section (*1*) to be published in the Official Gazette and in such other manner as may be prescribed.

(*4*) An award referred to in sub-section (3) shall be final, shall be given effect to by the parties to the agricultural dispute and shall be enforceable on the expiry of five days from the date of its publication in the Official Gazette.

Reference of dispute to National Commission for Adjudication.

27. (*1*) Where the Central Government is of the opinion on a request made in that behalf by the appropriate Government that any agricultural dispute exists or is apprehended and the dispute involves any question of national importance or is of such a nature that more than one State is likely to be interested in or affected by such dispute, and that the dispute should be adjudicated by a National Commission which shall be constituted by the Central Government by notification in the Official Gazette with the consent of two or more States in the manner and on such conditions as may be prescribed, then, the Central Government may, whether or not it is the appropriate Government in relation to that dispute by order, refer the dispute or any matter connected therewith, or relevant thereto, to a National Commission for Adjudication.

(*2*) No dispute shall be referred for adjudication under this section where the parties to the dispute agree to refer the dispute for arbitration.

CHAPTER VI

PENALTIES AND PROCEDURE

Penalty.

28. If any person—

(*a*) contravenes any of the provisions of this Act or any rule made thereunder; or

(*b*) fails to comply with the direction given or requisition made, if any, to him; or

(*c*) knowingly makes, or causes to be made, any false statement or representation;

he shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to rupees five hundred or with both.

Offences by companies.

29. (*1*) If an offence is committed under this Act by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business, as well as the Company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he excercised all due diligence to prevent the commission of such offence.

(*2*) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purpose of this section—

(*a*) "company" means any body corporate and includes a firm or other association of individuals whether incorporated or not; and

(*b*) "director" in relation to a firm, means a partner in the firm.

Cognizance of offence.

30. (*1*) No court shall take cognizance of any offence punishable under this Act, save on a complaint made by, or under the authority of, the appropriate Government.

(*2*) No court inferior to that of a Magistrate of the First Class shall try an offence punishable under this Act.

Enhanced penalty for second and subsequent conviction.

31. If any person who has been convicted of any offence punishable under this Act is again found guilty of an offence involving contravention of the same provisions, he shall be punishable, on a subsequent conviction, with imprisonment for a term which shall not be less than one month but which may extend to six months and with fine which shall not be less than five hundred rupees, but which may extend to two thousand rupees:

Provided that for the purpose of this section, no cognizance shall be taken of any conviction made more than five years before the commission of the offence for which punishment is given.

Limitation of prosecutions.

32. No court shall take cognizance of an offence punishable under this Act unless the complaint is made within six months from the date on which the alleged commission of the offence comes to knowledge of the appropriate Government or an Officer authorised in that behalf.

Constitution of Employment Guarantee Board.

33. (*1*) **The appropriate Government shall set up an Employment Guarantee Board, tripartite in character, having representatives of the appropriate Government, employers and agricultural workers to supervise the Employment Guarantee Scheme and Social Security Scheme.**

(*2*) The Chairman of the Board shall be nominated by the appropriate Government.

(*3*) The Board shall plan alternative or part-time employment and self employment during lean seasons and natural calamities.

CHAPTER VII

MISCELLANEOUS

Register of agricultural workers.

34. Every registering authority shall prepare and maintain a Register of agricultural workers residing within the jurisdiction of that authority in such manner, and with such particulars, as may be prescribed.

Maintenance of registers and records by the employer.

35. Every employer shall maintain such registers and records containing such particulars as may be prescribed.

Bar of jurisdiction of civil courts.

36. No civil court shall entertain any suit to set aside or modify any order or decision of any Tribunal, Authority or officer under this Act.

Powers to take evidence, oath, etc.

37. (*1*) Any Tribunal, Authority or officer, exercising powers under this Act, shall have the same powers as vested in Civil Court under the Code of Civil Procedure, 1908, when trying a suit, in respect of the following matters, namely:— 5 of 1908

(*a*) enforcing the attendance of any person and examining him on oath;

(*b*) requiring the discovery any production of documents;

(*c*) receiving evidence;

(d) issuing commission for the examination of witnesses; and

(e) such other matters as may be prescribed.

(2) Any proceeding before a Tribunal, Authority or officer under this Act, shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Code of Civil Procedure, 1908 and for the purposes of section 196 of the Indian Penal Code. 5 of 1908

Recovery of money due from employer.

38. (*1*) Where any money is due to an agricultural worker from an employer under this Act, the agricultural worker himself, or any other person authorised by him in writing in that behalf, or in the case of the death of the agricultural worker, his assignees or heirs, may make an application to the District Collector or Deputy Commissioner, as the case may be, for the recovery of the money due to him and if the District Collector or the Deputy Commissioner is satisfied that the money is so due he shall proceed to recover the amount of that money as if it were an arrear of public revenue due on land:

Provided that every such application shall be made within one year from the date on which the money became due to the agricultural worker from the employer.

(*2*) Any amount of money due from the employer as contribution to the Fund or a Scheme under this Act shall, if the amount is in arrear be recovered as if it were an arrear of public revenue due on land.

Act to have effect notwithstanding anything inconsistent in any other law.

39. The provisions of this Act and the Scheme and the rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law or in the terms of any award, agreement or contract of service, whether made before or after the coming into force of this section:

Provided that where under any such award, agreement, contract of service, custom or otherwise, any agricultural worker was enjoying immediately before the coming into force of this section benefits in respect of any matter, which are more favourable to him than those to which he would be entitled under this Act, the agricultural worker shall entitled to the more favourable benefits in respect of that matter, notwithstanding that he receives benefits in respect of other matters under this Act.

Act not to apply to marginal farmers.

40. Nothing contained in this Act save sections 18, 19, 20, 21, 23, 25, 26 and 39, shall apply in relation to a marginal farmer who does not hold more land than one irrigated hectare or two unirrigated hectares.

Members of the Board, etc. to be public servants.

41. Every member of the Board set up under sections 13 and 33 and every officer appointed under this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code. 45 of 1960

Protection against action taken in good faith.

42. No suit, prosecution or other legal proceedings shall lie against the appropriate Government, or any Tribunal, Authority or Officer in respect of anything which is done in good faith or intended to be done in pursuance of this Act or the Scheme or any rule or order made under this Act.

Prohibition of unfair labour practices.

43. An employer shall not support or encourage any unfair labour practice resulting in interference with the right of agricultural workers to enrol or continue as union members, discrimination restraint or coercion against any employee because of recognised activity of trade union, and victimization of any employee and abuse of authority in any form.

Power to make rules.

44. (*1*) The Central Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

(*2*) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for—

(*a*) the form and manner in which application for registering agricultural workers may be made;

(*b*) the wage rates and overtime rates which an agricultural worker is entitled to under this Act;

(*c*) the form of registers and records to be maintained;

(*d*) the powers of the Conciliation Officer;

(*e*) the procedure to be followed by the Conciliation Officer and the Agricultural Tribunal;

(*f*) the fees to be paid for applications and appeals under this Act;

(*g*) the manner of estimating the cash value of the wages paid in kind;

(*h*) the procedure to be followed by appropriate Government under sections 24 and 25; and

(*i*) any other matter which has to be, or may be, prescribed under the provisions of this Act.

STATEMENT OF OBJECTS AND REASONS

The problems of agricultural labour have been under consideration of the Government for quite some time. Various All-India Agricultural Labour Enquiries, the Rural Labour Enquiry and the All-India Seminar on Agricultural Labour in 1965 highlighted the problems of Agricultural Labour *e.g.* unemployment, under-employment, low wages, lack of amenities, inadequate housing, lack of organisation; resulting in a low standard of living.

Keeping in view the fact that India is a predominantly rural country, with nearly 80 per cent of its population living in rural areas, the problems of agricultural workers assume greater importance because of the sheer number involved. According to the 1971 Census, agricultural labourers in India numbered 47-48 millions against 31.52 millions in 1961. The Rural Labour Enquiry 1974-75, estimated that agricultural labour households form about 86 per cent of the rural labour households and that the total population covered in the category of agricultural labour was 335 millions, of which about half would be wage earners. The average earnings of wages per man-day for agricultural labour house-holds, as revealed by the 25th round of the National Sample Survery, focus the abysmal poverty of the agricultural workers of our country.

The following laws relate to various aspects of organised and unorganised labour applicable throughout India to a limited extend:—

(1) Minimum Wages Act, 1948.
(2) Payment of Wages Act, 1936
(3) Employees' Provident Fund and Miscellaneous Provisions Act, 1952
(4) Payment of Gratuity Act, 1972
(5) Industrial Disputes Act, 1947
(6) The Trade Union Act, 1926
(7) Workmen's Compensation Act, 1923
(8) Employees' State Insurance Act, 1948
(9) Maternity Benefit Act, 1961.

There is however, no legislation with totality of approach to the problems or agricultural labour, barring the Kerala Agricultural Workers Act, 1974 which is a comprehensive legislation for agricultural workers in Kerala. At present, the main Central Legislation to safeguard the interests of agricultural workers is the Minimum Wages Act, 1948. States and Union Territories responsible for the enforcement of this Act have been urged, from time to time, to ensure strict enforcement of the notified minimum wages by strengthening the administrative set up utilising the staff of other Departments, *e.g.* Revenue, Agriculture, Rural Development, etc., increasing the number of claims authorities and by giving wide publicity to the notified wages. Though some progress has been made, there are, however, frequent reports about the non-payment of notified minimum wages to agricultural workers.

The question of a Central legislation on the conditions of living and of work of agricultural workers was under consideration of the Government of India for quite some time. As early as in May, 1975, the second meeting of the Standing Committee on Agricultural Labour underlined the need for a Central legislation on the subject. In July, 1975, the 26th Session of the Labour Ministers' Conference commended the Kerala Agricultural Workers' Act, 1974 and suggested adoption of a uniform Central legislation on the subject.

In view of the large number of agricultural workers in India, whose conditions, are at present not adequately safeguarded by the existing legislation, enactment of a Central legislation would go a long way in ameliorating the problem of agricultural labour to a considerable extend.

Hence this Bill.

NEW DELHI;
November 4, 1996.

CHITTA BASU

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the constitution of Agricultural Tribunals. Clause 4 provides for appointment of Registration officers. Clause 5 provides for appointment of conciliation officers. Clause 6 provides for the appointment of Inspectors. Clause 10 provides for framing of a Scheme called Agricultural Workers' Welfare Fund Scheme. Clause 11 provides for contribution to the Fund. Clause 13 provides for the constitution of the Agricultural Workers' Welfare Fund Board. Clause 14 provides for the appointment of officers of the Board. Clause 33 provides for the setting up of Employment Guarantee Boards.

The expenditure involved in these matters will be met from the Consolidated Fund of the States. Expenditure in respect of Union Territories will be incurred from the Consolidated Fund of India. A sum of rupees fifteen lakh is, therefore, likely to be involved as annual recurring expenditure from the Consolidated Fund of India. And, in addition, a sum of rupees five lakh is also likely to be involved on account of non-recurring expenditure.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 44 empowers the Central Government to make rules for carrying out the purposes of this Bill. The matters in respect of which rules may be made will relate to administrative details only and as such the delegation of legislative powers is of a normal character.

BILL NO. 119 OF 1996

A Bill to provide for compulsory voting by the electorate in the country and for matters connected therewith.

BE it enacted by Parliament in the Forty-seventh Year of the Republic of India as follows:—

Short title, extent and commencement.

1. (*1*) This Act may be called the Compulsory Voting Act, 1996.

(*2*) It extends to the whole of India.

(*3*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Compulsory voting.

2. (*1*) It shall be compulsory for every voter, who is eligible to vote at an election, to exercise his right to vote when called for by the Election Commission:

Provided that a voter may be exempted from exercising his vote when he is physically in capacitated from an illness of a serious nature and produces a medical certificate from a registered medical practitioner testifying to such incapacity.

(*2*) **The Election Commission shall arrange for mobile ballot box vans in each constituency for the casting of votes by those persons who are not in a position to cast their votes at polling booths.**

Punishment.

3. Any person, who fails to cast his vote shall be liable to—

(*i*) a fine of rupees one hundred, or

(*ii*) one day imprisonment, or

(*iii*) both in case of deliberate avoidence;

(*iv*) forfeiture of his ration card; and

(*v*) be ineligible for contesting any election for a period of six years from the date of his conviction:

Provided that if such person is an employee of the Union Government or any public sector undertaking owned or controlled by Union Government, such person shall also be punished with—

(*a*) forfeiture of four days salary;

(*b*) delay in promotion for a period of one year.

Reward for voting.

4. Any person who inspite of his illness or physical incapacity has exercised his right to vote at an election or any person who has exercised his right to vote at all elections held during a period of twenty years preceding the commencement of this Act without any break shall be—

(*i*) **provided with a certificate of reward of value of rupees one thousand;**

(*ii*) given preference in jobs in the services under the Central Government; and

(*iii*) given preference in admission to the institutions of higher technical education.

Power to make rules.

5. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purpose of this Act.

STATEMENT OF OBJECTS AND REASONS

It is a very sad feature that is revealed at all elections that the number of voters who actually cast their votes is far less than those eligible. The average number of votes polled is around 50 per cent. It is a glaring commentary on the responsibility of citizens that the fate of the country's democratic institutions has been left to be decided by about 50 per cent of the electorate. Since the trend of voting from time to time does not show any appreciable increase in the number of those who exercise their franchise, time has come to ensure that all the citizens exercise their sovereign right to choose their representatives, so that the elections may reflect the will of the whole electorate and not merely that of a part of it. In 11th Lok Sabha, in number of States the voting was less than 40 per cent and in number of cases people had boycotted elections and thus did not vote deliberately.

With a view to increasing the voting percentage, the present Bill purports to make it compulsory for every eligible voter to vote and to provide for exemption only in cases where the voter is physically incapacitated due to illness of serious nature. In these cases also Election Commission shall arrange for mobile booths for those who are unable to cast their votes at polling booths.

Since the provision is being made compulsory, punishment is also sought to be given to those who do not vote at elections. However, reward is also proposed to be given to those persons who vote at elections inspite of their illness or without any break.

Hence this Bill.

NEW DELHI;
November 4, 1996.

T. SUBBARAMI REDDY

FINANCIAL MEMORANDUM

Clause 2 of the Bill provides that the Election Commission shall make arrangements for mobile vans for the purpose of casting of votes by those persons who are not in a position to cast their votes at polling booths, in each constituencies. Clause 4 of the Bill provides for certificate of reward of value of rupees one thousand to those persons who inspite of their illness or physical incapacity exercise their right to vote at an election or to those who exercise their right at all elections held during a period of twenty years preceding the commencement of this Act without any break.

This Bill, if enacted, will involve expenditure from the Consolidated Fund of India. It is likely to involve a recurring expenditure of about rupees one crore per annum.

A non-recurring of about rupees fifty lakh is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 5 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill which will relate to matters of details only. The delegation of legislative power is, therefore, of a normal character.

BILL NO. 122 OF 1996

A Bill to provide for abolition of begging and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Forty-seventh Year of the Republic of India as follows:—

Short title and extent.

1. (*1*) This Act may be called the Prevention of Begging Act, 1996.

(*2*) It extends to the whole of India.

Definitions.

2. In this Act, unless the context otherwise requires,—

(*a*) "appropriate Government" means in the case of a State, the Government of that State and in all other cases, the Central Government;

(*b*) "beggar" means a person who indulges in begging;

(*c*) "Begging" means—

(*i*) soliciting alms in a public place, including railways, bus-stops, road sides and public transport, by invoking compassion; and

(*ii*) entering in any private premises for the purpose of soliciting or receiving alms;

(*d*) "receiving centre" means a centre established under section 5, where any person taken into custody on the ground of begging shall be kept till the time he is rehabilitated.

Abolition of begging.

3. Begging by any person in any manner is hereby abolished.

Punishment for forced begging.

4. Whoever forces or encourages any person, including a child in his care, custody or charge, for begging or whoever uses any person as an exhibit for the purpose of begging, shall, in the first instance, be warned of indulging in such activities and punished with a fine of rupees five hundred if he indulges inspite of the warning given to him.

Arrest of persons found begging, etc.

5. (*1*) Any person found begging shall be arrested by the Police.

(*2*) **Any person so arrested shall be sent to a receiving centre, to be established in every district by the appropriate Government, wherein such person shall be provided with facilities for his rehabilitation.**

Beggars' Welfare Fund.

6. (*1*) **The Central Government shall constitute a Fund to be called the Beggars' Welfare Fund for the welfare of the beggars.**

(*2*) The fund shall be utilised for the welfare and rehabilitation of beggars.

Formulation of schemes and plans for beggars, etc.

7. (*1*) **The appropriate Government shall formulate such schemes, work out such plans, including plans for provision of education, and create suitable infrastructure in every district so as to enable beggars to take up suitable jobs for earning livelihood.**

(*2*) **The appropriate Government shall set up destitute homes for providing food, shelter and protection, to the old, infirm, helpless and destitute persons so as to discourage them from indulging in begging.**

Power to make rules.

8. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

Despite all efforts made and welfare measures taken by the Central Government and the State Governments, the practice of begging continues unabated all over the country, especially in the metropolitan cities and urban centres. There are organised gangs who exploit innocent children and force them into begging not for the sustenance of these boys and girls but for gathering alms for the gang leaders and organisers. Some people have made forcing children into begging a business. They kidnap children and force them to go for begging and collect huge amount.

As per 1971 census the number of beggars in the country was 10 lakhs and the number has considerably increased during subsequent years.

Prevention of begging has to go alongwith programmes for education, training and rehabilitation of the children, women and men found engaged in begging. Some alternative source of livelihood have to be found for the beggars.

Therefore, it is high time that a law for prevention of begging is brought forward.

Hence this Bill.

NEW DELHI;
November 4, 1996.

T. SUBBARAMI REDDY

FINANCIAL MEMORANDUM

Clause 5 of the Bill provides for establishment of "receiving centres" in every district by the appropriate Government. Clause 6 provides for setting up of Beggars' Welfare Fund. Clause 7 provides for formulation of schemes and creating suitable infrastructure by appropriate Government in every district so as to enable beggars to take up suitable jobs. It further provides for setting up of destitute homes by the appropriate Government. The Central Government would have to incur expenditure from the Consolidated Fund of India for establishment of receiving centres, destitute homes, formulating schemes, creating suitable infrastructure in respect of Union territories and shall also have to contribute monies into Beggars' Welfare Fund. As far as establishment of receiving centres, destitute homes, formulation of schemes and creating suitable infrastructure in the States are concerned, the concerned State Governments will incur expenditure from their Consolidated Funds, though the Central Government may have to extend some financial assistance to States for implementing the provisions of the Bill. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is likely to involve a recurring expenditure of about rupees one hundred crore per annum.

A non-recurring expenditure of about rupees fifty lakhs is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 8 empowers the Central Government to make rules for carrying out the provisions of the Bill. Since the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 115 OF 1996.

A Bill *to provide for the establishment of a National Welfare Board for welfare of children and for matters connected therewith.*

BE it enacted by Parliament in the Forty-seventh Year of the Republic of India as follows:—

1. (*1*) This Act may be called the National Child Welfare Board Act, 1996. Short title and extent.

(*2*) It extends to the whole of India.

2. In this Act, unless the context otherwise requires, "Child" means a person who is under the age of eighteen years. Definition.

3. (*1*) **There shall be established by the Central Government a Board to be known as the "National Child Welfare Board" (hereinafter referred to as the "National Board"), which shall consist of a Chairman and four other members having special knowledge or practical experience in the field of education, medicine, sports, culture and social services.** Establishment of National Child Welfare Board.

(*2*) It shall be the duty of the Board to enunciate the national policy for the development of child.

Establishment of State or Union territory Child Welfare Boards.

4. There shall be established by every State Government or Union territory Administration a Board to be known as the "State or Union territory Child Welfare Board" as the case may be (hereinafter referred to as the "State Board" or "Union territory Board") which shall consist of a Chairman and such number of other members, as the State Government or the Union territory Administration may determine, who shall have special knowledge or practical experience in the field of education, medicine, sports, culture and social service.

Duties of State or Union territory Boards.

5. It shall be the duty of every State and Union territory Board to—

(*i*) advise and guide the National Board as regards—

(*a*) the ways to improve the health and proper maintenance of the children;

(*b*) the type of education which is to be imparted to each child, including technical education and vocational training;

(*ii*) provide education, uniform, transportation and meals, etc. free of cost to every child upto the twelfth standard;

(*iii*) select children for higher and technical education and to meet all their expenses;

(*iv*) select talented children in different sports and to train them;

(*v*) provide free hostel facilities; and

(*vi*) provide scholarship to deserving children.

Duty of Central Government to carry out the policy of National Board.

6. It shall be the duty of the Central Government to carry out the policy of the National Board into effect through release of funds and materials.

Constitution of Child Welfare Fund.

7. The Central Government shall constitute a fund to be called the Child Welfare Fund.

Power to make rules.

8. (*1*) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(*2*) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for—

(*a*) the salary and other allowances payable to the members of the National Board, State Boards and Union Territory Boards;

(*b*) the appointment of other staff and provision of office and furniture, etc. for the Boards;

(*c*) any other matter which has to be, or may be, prescribed.

STATEMENT OF OBJECTS AND REASONS

India is a developing country and a large number of people are uneducated, unemployed and poor. Moreover, the children, who are the future of the country, are under-nourished and education is not being imparted to them as per the requirement of the present times. The rich people can spend money for better education of their children. Whereas the large majority of the poor people cannot afford to utilise the natural potentialities of their children. Due to the lack of proper nourished diet and health care, the children become victims of a number of incurable diseases. Therefore, there is an urgent need to formulate a national policy for the development of children. In this connection it is proposed to establish Child Welfare Board. The Child Welfare Boards will examine the capability and capacity of a child and make recommendations for the better development of the child. This will also result in lesser drop-outs from schools. Children will also get employment oriented education and talented children in sports will be trained so that they can perform better in the international arena of sports.

Hence this Bill.

NEW DELHI;
November 4, 1996.

T. SUBBARAMI REDDY

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the establishment of the National Child Welfare Board. Clause 4 provides for the establishment of State or Union territory Child Welfare Boards. Clause 5 provides for provision of education, uniform etc. free of cost to all children upto 12th standard. It further provides for selection of children for higher and technical education and for meeting of all their expenditure by the State or Union territory Boards. Clause 6 provides that it shall be the duty of the Central Government to carry out the policy of National Board by means of funds and materials. Clause 7 provides for establishment of Children Welfare Fund. Clause 8 provides for payment of salary and other allowances to members of National Board, State and Union territory Boards. It also provides for appointment of other staff and provision of office furniture, etc. for the Boards. The Bill, therefore, if enacted, is likely to involve a recurring expenditure of about rupees one crore per annum from the Consolidated Fund of India.

It is also likely to involve a non-recurring expenditure of about rupees fifty lakhs.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 8 of the Bill empowers the Central Government to make rules to carry out the purposes of the Bill. Sub-clause (2) of that clause enumerates the various matters in respect of which rules may be made. The matters in respect of which rules may be made are matters of procedure or detail only. The delegation of legislative power is, thus, of a normal character.

BILL NO. 112 OF 1996

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Forty-seventh Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 1996. Short title.

2. After article 330 of the Constitution, the following article shall be inserted, namely:— Insertion of new article 330A.

"330A.(1) Seats shall be reserved in the House of the People for the Other Backward Classes. Reservation of seats for Other Backward Classes in the House of People.

(2) The number of seats reserved in any State or Union Territory for the Other Backward Classes under clause (1) shall bear, as nearly as may be, the same proportion to the total number of seats allotted to that State or Union Territory in the House of the People as the population of Other Backward Classes in the State or Union Territory or part of the State or Union Territory, as the case may be, in respect of which seats are so reserved, bears to the total population of the State or Union Territory.

Explanation:— In this article and in article 332A, the expression "population" means the population as ascertained at the last preceding census of which the relevant figures have been published:

Provided that the reference in this *Explanation* to the last preceding census of which the relevant figures have been published shall, until the relevant figures for the first census taken after the year 2000 have been published, be construed as a reference to the 1971 census:

Provided further that the first census taken after the year 2000 shall include 'caste' as one of the items of information.".

Insertion of new articles 332A and 332B.

3. After article 332 of the Constitution, the following articles shall be inserted, namely:—

Reservation of Seats for Other Backward Classes in the Legislative Assemblies of the States and Union Territories.

"332A.(1) Seats shall be reserved for the Other Backward Classes in the Legislative Assembly of every State and in Legislative Assembly of every Union Territory having a Legislative Assembly.

(2) The number of seats reserved for the Other Backward Classes in the Legislative Assembly of any State or Union Terrritory, having a Legislative Assembly, under clause (1) shall bear, as nearly as may be, the same proportion to the total number of seats in the Assembly as the population of the Other Backward Classes in the State or Union Territory or part of the State or Union Territory, as the case may be, in respect of which seats are so reserved, bears to the total population of the State or Union Territory.

Bar of jurisdiction of Courts.

332B. Notwithstanding anything contained in this Constitution, no Court shall have jurisdiction in respect of any reservation made under articles 330A and 332A".

Insertion of new article 334A. Reservation of Seats for Other Backward Classes to cease after twenty-five years.

4. After article 334 of the Constitution, the following article shall be inserted, namely:—

"334A. Notwithstanding anything in the foregoing provisions of this Part, the provisions of this Constitution relating to the reservation of seats for the Other Backward Classes in the House of the People and in the Legislative Assemblies of the States and of Union Territories having Legislative Assembly shall cease to have effect on the expiration of a period of twenty-five years from the date of coming into force of the Constitution (Amendment) Act, 1996:

Provided that nothing in this article shall affect any representation in the House of the People or in the Legislative Assembly of a State or Union Territory having Legislative Assembly until the dissolution of the then existing House or Assembly, as the case may be.".

Substitution of new article for article 340. National Commission for Other Backward Classes.

5. For article 340 of the Constitution, the following article shall be substituted, namely:—

"340. (1) There shall be a Commission for the Other Backward Classes to be known as the National Commission for the Other Backward Classes.

(2) Subject to the provisions of any law made in this behalf by Parliament, the Commission shall consist of a Chairperson, Vice-Chairperson and seven other Members and the conditions of service and tenure of office of the Chairperson, Vice-Chairperson and other Members so appointed shall be such as the President may by rule determine.

(*3*) The Chairperson, Vice-Chairperson and other Members of the Commission shall be appointed by the President by warrant under his hand and seal.

(*4*) The Commission shall have the powers to regulate its own procedure. .

(*5*) It shall be the duty of the Commission:—

(a) to investigate and monitor all matters relating to the safeguards provided for the Other Backward Classes under this Constitution or under any law for the time being in force or under any order of the Government and to evaluate the working of such safeguards;

(b) to inquire into specific complaints with respect to the deprivation of rights and safeguards of the Other Backward Classes;

(c) to participate and advise on the planning process of socio-economic development of the Other Backward Classes and to evaluate the progress of their development under the Union and any State;

(d) to present to the President, annually and at such other times, as the Commission may deem fit, reports upon the working of those safeguards;

(e) to make in such reports recommendations as to the measures that should be taken by the Union or any State for the effective implementation of those safeguards and other measures for the welfare and socio-economic development of the Other Backward Classes;

(f) to discharge such other functions in relation to the welfare and development and advancement of the Other Backward Classes as the President may, subject to the provisions of any law made by the Parliament, by rule specify.

(*6*) The President shall cause all such reports to be laid before each House of Parliament alongwith a Memorandum explaining the action taken or proposed to be taken on the recommendations relating to the Union and the reasons for the non-acceptance, if any, on any of such recommendations.

(*7*) Where any such report, or any part thereof, relates to any matter with which any State Government is concerned, a copy of such report shall be forwarded to the Governor of the State who shall cause it to be laid before the Legislature of the State alongwith a Memorandum explaining the action taken or proposed to be taken on the recommendations relating to the State and the reasons for the non-acceptance, if any, on any of such recommendations.

(*8*) The Commission shall while investigating any matter referred to in sub-clause (a) or inquiring into any complaint referred to in sub-clause (b) of clause 5, have all the powers of a civil court trying a suit and in particular in respect of the following matters, namely:—

(a) summoning and enforcing attendance of any person from any part of India and examining him on oath;

(b) requiring the discovery and production of any documents;

(c) receiving evidence on affidavits;

(d) requisitioning any public record or copy thereof from any court or office;

(e) issuing commissions for the examination of witnesses and documents;

(f) any other matter which the President may by rule determine.

(*9*) The Union and every State Government shall consult the Commission on all major policy matters affecting the Other Backward Classes.

Insertion of new article 342A. Other Backward Classes.

6. After article 342 of the Constitution, the following article shall be inserted, namely:—

"342A.(*1*) The President may with respect to any State or Union Territory and where it is a State, after consultation with the Governor thereof, by public notification, specify the castes or races or parts or groups within castes or races which shall for the purposes of this Constitution be deemed to be Other Backward Classes in relation to that State or Union Territory, as the case may be.

(*2*) Parliament may by law include in or exclude from the list of Other Backward Classes specified in a notification issued under clause (1) any caste or race or part of or group within in any caste or race but save as aforesaid a notification issued under the said clause shall not be varied by any subsequent notification.".

STATEMENT OF OBJECTS AND REASONS

The population of India is about ninety crores. At present, eighty-five per cent. of the population of India constitutes of the Scheduled Castes, the Scheduled Tribes and the Other Backward Classes. The Scheduled Castes and Scheduled Tribes have already been given representation in the House of the People on the basis of their population, keeping in view, the principle of social justice. Similarly, about sixty-two per cent. of our population, which constitute Other Backward Classes, have not yet been given any representation either in the House of the People or in the Legislative Assemblies. After 49 years of Independence, communities of Other Backward Classes are still economically, educationally, politically and socially backward. It is, therefore, imperative that seats be reserved for the Other Backward Classes in the House of the People and Legislative Assemblies so as to uphold the principle of social justice. The Bill also proposes to set up a National Commission for Other Backward Classes which shall oversee the overall interests including socio-economic development of Other Backward Classes.

Hence this Bill.

NEW DELHI;
November 4, 1996.

P. KODANDARAMAIAH

FINANCIAL MEMORANDUM

Clause 5 of the Bill provides for the appointment of a National Commission for the Other Backward Classes. The Commission shall consist of a Chairperson, Vice Chairperson and seven other Members. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India in respect of salaries, etc. which shall be payable to the Chairperson, Vice-Chairperson and other members of the Commission. A recurring expenditure of about rupees twenty-five lakh per annum is likely to be involved from the Consolidated Fund of India.

A non-recurring expenditure of about rupees fifty lakh is also likely to be involved from the Consolidated Fund of India on Provision of building, furniture, etc. for the National Commission for the other Backward Classes.

BILL NO. 123 OF 1996

A Bill to provide for reservation of vacancies for the members of scheduled castes and scheduled tribes in posts and services under the control of the Government of India or of a State and in all statutory authorities and autonomous bodies receiving monies from the Government of India or of a State and for providing punishment for violation of reservation policy and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Forty-Seventh Year of the Republic of India as follows:—

1. (*1*) This Act may be called the Scheduled Castes and the Scheduled Tribes (Reservation of Vacancies in Posts and Services) Act, 1996. **Short title, commencement and application.**

(*2*) It shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint.

(*3*) It shall apply to every establishment as defined in clause (b) of section 2.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "appointing authority" in relation to a service or post in an establishment means the authority empowered to make appointment to such service or post;

(b) "establishment" means—

(*i*) any office of the Government of India or of State;

(*ii*) any public sector undertaking or statutory authority constituted under any Central Act or a State Act for the time being in force;

(iii) a corporation in which not less then fifty-one per cent. of the paid up share capital is held by the Central Government or a State Government;

(iv) a university and its affiliated colleges, including medical and engineering colleges affiliated to such university established by a Central Act or by a State Act;

(v) primary and secondary schools and other educational institutions which are owned or aided by the Central Government or by a State Government;

(vi) any industry, trade, business or occupation owned, controlled or managed by the Central Government or a State Government;

(vii) any Government company as defined in section 617 of the Companies Act, 1956 or a Corporation established by or under a Central Act or a State Act; and 1 of 1956.

(viii) all autonomous bodies and other institutions receiving monies out of the Consolidated Fund of India or Consolidated Fund of a State or grants-in-aid from the Central Government or a State Government;

(c) "prescribed" means prescribed by rules made under this Act;

(d) "recruitment year" means the financial year during which a recruitment is actually made;

(e) "reservation" means reservation of vacancies in posts and services for Scheduled Castes and Scheduled Tribes;

(f) "Scheduled Castes" shall have the same meaning as is assigned to them in clause (24) of article 366 of the Constitution of India; and

(g) "Scheduled Tribes" shall have the same meaning as is assigned to them in clause (25) of article 366 of the Constitution of India.

Reservation of vacancies for Scheduled Castes and Scheduled Tribes.

3. *(1)* There shall be reservation of vacancies in posts and services for the members of the Scheduled Castes and the Scheduled Tribes at all levels of recruitment including appointments by promotion.

(2) Except as otherwise provided in this Act, the vacancies reserved for the Scheduled Castes and the Scheduled Tribes shall not be filled up by candidates not belonging to the Scheduled Castes and the Scheduled Tribes.

(3) The reservation of vacancies under sub-section *(1)* shall be at such percentage of the total number of vacancies as the Central Government may, after taking into consideration the percentage of population of the Scheduled Castes and the Scheduled Tribes to the total population of the country, as per the figures of the latest census, from time to time determine:

Provided that in no case such reservation shall be less than fifteen per cent. of the total number of vacancies for the members of the Scheduled Castes and seven and a half per cent. of the total number of vacancies for the members of the Scheduled Tribes at any given point of time.

(4) Vacancies reserved for the members of the Scheduled Castes and the Scheduled Tribes under sub-section *(1)* shall be filled in such manner as may be prescribed:

Provided that any post falling vacant in any establishment from general category shall be offered to the Scheduled Caste or the Scheduled Tribe candidate, as the case may be, to fill up the gap—of percentage of vacancies reserved under sub-section *(3)*.

Vacancies not reserved to be open to all candidates including candidates belonging to Scheduled Castes and Scheduled Tribes.

4. *(1)* The recruitment to a vacancy not reserved for the members of the Scheduled Castes or the Scheduled Tribes or for any other category shall be open to all eligible candidates including the candidates belonging to the Scheduled Castes and the Scheduled Tribes.

(2) Where an unreserved vacancy is filled up by a candidate belonging to a Scheduled Caste or a Scheduled Tribe on the basis of merit, either by direct recruitment or by promotion, such vacancy shall not be adjusted against the percentage of vacancies reserved for the Scheduled Castes or the Scheduled Tribes, as the case may be.

Exchange of vacancies between Scheduled Castes and Scheduled Tribes.

5. *(1)* Where the number of vacancies reserved for the members of the Scheduled Castes or the Scheduled Tribes, as the case may be, in a recruitment year can not be filled up due to non-availability of candidates from the respective categories, such vacancies shall continue to be reserved for that category for such number of recruitment years, as may be prescribed.

(2) If, after the expiry of the number of recruitment year prescribed under sub-section (1), the candidates belonging to the Scheduled Castes or the Scheduled Tribes, as the case may be, are not available to fill up the vacancies respectively reserved for them, such vacancies shall be exchanged between the Scheduled Castes and the Scheduled Tribes with such relaxation and in such manner, as may be prescribed.

Appointing authority to be responsible for implementation of the provisions of the Act.

6. *(1)* It shall be the responsibility of the appointing authority to ensure that the provisions of this Act or the rules made thereunder are not violated.

(2) The Central Government may give such directions or prescribe such guidelines to the appointing authority, as it may deem fit for the purposes of sub-section (1).

Application of other laws not barred.

7. The provisions of this Act and the rules made thereunder shall be in addition to and not in derogation of any other law, for the time being in force, in respect of recruitment/ promotion of the members of the Scheduled Castes and the Scheduled Tribes to the extent that such law is not inconsistent with the provisions of this Act or the rules made.

Relaxations and concessions.

8. For appointment of candidates belonging to the Scheduled Castes and the Scheduled Tribes—

(a) the upper age limit fixed for appointment to a service or a post shall be relaxed by such number of years, as may be prescribed, but such relaxation in age, in no case, be less than five years;

(b) the examination fees fixed for recruitment to a service or a post through competitive examination or otherwise shall be reduced to such extent, as may be prescribed.

(c) the requirement of percentage of marks, educational and other qualifications including experience required for direct recruitment/promotion may be relaxed at the

discretion of the appointing authority if at any stage of selection the appointing authority is of the opinion that sufficient number of Scheduled Caste and Scheduled Tribe candidates with requisite qualifications are not available to fill up the vacancies reserved for them; and

(d) the appointing authority shall pay them such travelling allowance, as may be prescribed, for the purpose of attending competitive examination and/or interview.

Protections of action taken in good faith.

9. No suit, prosecution or other legal proceedings shall lie against any establishment or any other person for anything which has been done or intended to be done in pursuance of giving effect to the provisions of this Act or any rule or order made thereunder.

Liaison Officer.

10. (*1*) Every establishment shall designate one or more officers of such rank, as may be prescribed, to act as liaison officer in respect of matters provided in this Act and to ensure that the provision of this Act or rules made thereunder are not violated.

(*2*) The Liaison Officer, shall, in particular, be responsible for—

(a) ensuring coordination and proper implementation of the provisions of this Act and the rules made or any order, instruction or direction issued by the Central Government, thereunder;

(b) ensuring timely submission of the annual report, referred to in section 11, to the Central Government;

(c) conducting annual inspection of records in such manner, as may be prescribed; and

(d) doing such other incidental work, as may be necessary, for the proper implementation of the provisions of this Act or the rules made thereunder.

Submission of Annual Reports and maintenance of other records and inspection thereof.

11. (*1*) **Every appointing authority shall maintain such records, as may be prescribed, and shall furnish every year, in such manner and at such time, as may be prescribed, to the Central Government an annual report on the appointments and promotions made by it during the previous recruitment year:**

Provided that the appointing authority shall maintain separate records of all appointments and promotions made during the previous recruitment year for each category of posts and services and each of such records shall specifically contain the number and percentage of persons belonging to the Scheduled Castes and the Scheduled Tribes who were appointed or promoted to fill up the vacancies against those posts and services during that recruitment year.

(*2*) The Central Government may authorise any officer to inspect any records or documents which are maintained in relation to appointments and promotions made in any establishment by the appointing authority.

(*3*) It shall be the duty of the appointing authority to make available such records or documents to—

(a) the officer authorised under sub-section (2) and furnish to him such information and render such assistance as may be necessary for him to carry out his functions under this Act; and

(b) any employee working under him on receiving a written request.

Punishment.

12. Whoever contravenes the provisions of this Act shall be punished with imprisonment which may extend to one year or with fine amounting to rupees ten thousand or with both.

Punishment for making false claims.

13. Whoever knowingly makes a false claim that he is a member of the Scheduled Caste or, as the case may be, the Scheduled Tribe, and whoever knowingly issues a false certificate to this effect, shall be punished with imprisonment for a term which shall be not less than three years or with fine which may extend to rupees ten thousand or with both.

Power of Central Government to give directions.

14. The Central Government may, by order give such directions, as it may deem fit, from time to time, to give effect to the provisions of this Act and every establishment shall be bound by all such directions issued by the Central Government.

Removal of difficulties.

15. (*1*) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, to be published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as may appear to it to be necessary for removing the difficulty.

(*2*) Every order made under this section shall be laid as soon as may be after it is made, before each House of Parliament.

Annual Report.

16. The Central Government shall, every year, lay before each House of Parliament, a report giving full account of the working of the provisions of this Act during the preceding recruitment year :

Provided that the report shall also include details of penal action taken against the appointing authorities for violating the provisions of this Act.

Power to make rules.

17. (*1*) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the percentage of vacancies to be reserved for the members of the Scheduled Castes and the Scheduled Tribes under sub-section(*3*) of section 3;

(b) the manner of filling vacancies reserved for the Scheduled Castes and the Scheduled Tribes under sub-section (*4*) of section 3;

(c) the number of recruitment years for carrying forward reserved vacancies not filling in a particular recruitment year and the manner of interchange of vacancies between the Scheduled Castes and the Scheduled Tribes under section 5;

(d) relaxation in upper age limit;

(e) reduction in quantum of fees to be charged for admission to competitive examination/interview;

(f) the rate at which the travelling allowance, referred to in clause (d) of section 8, may be given to the Scheduled Castes and the Scheduled Tribes;

(g) rank of officer to be designated as liaison officer under section 10.

(h) the manner in which records may be maintained by the appointing authority and the manner in which and the time at which an annual report on the appointments and promotions made by the appointing authority during the previous year may be furnished under sub-section (*1*) of section 11;

(i) the manner of conducting inspection of records under section 11;

(j) procedure that may be followed by the appointing authority for verification of the caste status of the appointee and the procedure that may be followed by the higher authority in case an appeal is filed by the appointee against the action of appointing authority; and

(k) any other matter which may be prescribed or in respect of which rules are required to be made by the Central Government.

(*3*) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Act to have over riding effect.

18. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act.

STATEMENT OF OBJECTS AND REASONS

Although articles 38, 39 and 46 of the Constitution require the State to promote educational and economic interests of the Scheduled Castes and the Scheduled Tribes in order to render social justice to them and since employment including promotions in service is an aspect of economic interest of the Scheduled Castes and the Scheduled Tribes, it is, therefore, the duty of the State to give adequate protection to the economic interests of the Scheduled Castes and the Scheduled Tribes. Moreover, it has been our national policy to make special provisions for the advancement of the Scheduled Castes and the Scheduled Tribes in matters relating to their employment or appointment, including promotions, to any office under the State. This view was also upheld by the Supreme Court in Rangachari's case in 1962 and ever since many judgements have been delivered by the Supreme Court on the above principle including the judgements in the Thomas' case and the Railway Karamachari Sangh's case.

However, in the recent Mandal case the Supreme Court took the view that reservation is confined only to initial recruitment and does not include promotion and, as such, reservation in promotion is not covered under article 16(4) of the Constitution. The decision of the Supreme Court is enforceable throughout the territory of India under article 142 of the Constitution unless a law is made by the Parliament annulling the effect of the decision of the Supreme Court.

In such circumstances it has, therefore, become necessary to amend article 16 and Ninth Schedule to the Constitution making reservation in promotion as a part of reservation scheme and such reservation of appointment and posts, which includes reservation in promotion in services and posts under the State, may not be subject to any judicial scrutiny.

However, it is all the more important that a separate Act should be made providing for ensuring reservation in appointments and posts for the Scheduled Castes and the Scheduled Tribes, including reservation for them in promotions in all the departments of the Central Government and State Governments, nationalised banks, public sector undertakings, statutory authorities, autonomous bodies, companies or corporations, societies, local authorities, universities, educational institutions affiliated to the universities or those recognised by the Central Government or receiving aid from the Central Government, etc. Moreover, penal provisions have to be provided to ensure effective implementation of the Act and to ensure that the reservation is not less than fifteen per cent. of the total number of vacancies for members of the Scheduled Castes and seven and half per cent. of the total number of vacancies for members of the Scheduled Tribes at any given point of time.

The Bill seeks to achieve the above objective.

NEW DELHI;
November 8, 1996.

ASHOK KUMAR PARDHAN

FINANCIAL MEMORANDUM

Clause 8(d) of the Bill provides that the appointing authority shall pay to the Scheduled Caste and the Scheduled Tribe candidates such travelling allowance, as may be prescribed, for the purpose of attending competitive examination and/or interview. Clause 11 provides that every appointing authority shall maintain such records, as may be prescribed, and shall furnish every year, in such manner and such time, as may be prescribed, to the Central Government an annual report on the appointments and promotions made by it during the previous recruitment year. Clause 16 provides for the preparation and laying of an annual report on the working of the Act before each House of Parliament. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is likely to involve an annual recurring expenditure of about rupees one hundred crore from the Consolidated Fund of India.

No non-recurring expenditure is likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 17 of the Bill empowers the Central Government to make rules for carrying out the provisions of the Bill. The matters in respect of which rules may be made are matters of procedure and detail and since it is not possible to incorporate the same in the Bill, the delegation of legislative power is of a normal character.

BILL NO. 127 OF 1996

A Bill to provide employment or for means and resources for self-employment to atleast one adult member of every family.

BE it enacted by Parliament in the Forty-seventh Year of the Republic of India as follows:—

1. This Act may be called the Provision of Employment Act, 1996. Short title.

2. In this Act, unless the context otherwise requires, 'family', means and includes wife, husband and minor children. Definition.

3. It shall be the duty of the Central Government to provide employment to atleast one adult member of every family. Central Government to provide employment.

4. Every person who has been provided with a job under section 3 shall not involve himself in any activity other than his employment for financial or other gains. An employee not to involve in any activity resulting in financial gain.

Government to ensure promotion to employees.

5. The Central Government shall evolve a process ensuring periodical promotions to all its employees on the basis of tests and their performance.

Dependants to get employment after retirement.

6. The Central Government shall provide employment to the dependant of an employee, who had been provided with a job under section 3, after his retirement from service.

Family to get benefits in case of unemployment of any member.

7. The Central Government shall provide credit, subsidy and all other facilities or resources for self-employment to a family where it is not possible to provide employment to atleast one member of that family.

Power to make rules.

8. The Central Government may make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

In India, poverty is one of the biggest problems. Even after fifty years of independence, we have not been able to contain the poverty. Although, our country has progressed in many fields, yet it has failed to improve the standard of living of the people. There may be many reasons for poverty.

It has been observed that income of a small family as compared to its income in the year 1965 has not improved much. There are large number of families where there is not even a single earning member and most of them earn their livelihood by working as labourers, domestic servants, bonded labourers, etc. Majority of population lives below poverty line. Our country being a welfare State should take necessary steps to improve the lot of the people and formulate schemes and plans to eradicate poverty from the country.

With this in view it is proposed to make a positive step towards eradicating poverty. It is proposed that atleast one adult member of every family should be provided with employment and where it is not possible to provide employment, the family should be given all necessary facilities for decent and reasonable livelihood.

The Bill seeks to achieve the above objective.

NEW DELHI;
November 11, 1996.

T. SUBBARAMI REDDY

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides that the Central Government shall provide employment to one adult member of every family. Clause 7 provides that the Central Government shall provide credit, subsidy and all other facilities or resources for self-employment to a family where it is not possible to provide employment. The Bill, if enacted, would involve expenditure from the Consolidated Fund of India in implementing the provisions of the Bill. It is likely to involve an annual recurring expenditure of about rupees one thousand crore from the Consolidated Fund of India.

A non-recurring expenditure to the tune of one hundred crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 8 of the Bill empowers the Central Government to make rules to carry out the purposes of the Bill. The matters in respect of which rules may be made are matters of procedure or detail only. The delegation of legislative power is, thus, of a normal character.

BILL NO 118 OF 1996

A Bill to provide for the establishment of a permanent Bench of the High Court at Allahabad at Meerut.

BE it enacted by Parliament in the Forty-seventh Year of the Republic of India as follows:—

Short Title.

1. This Act may be called the High Court at Allahabad (Establishment of a permanent Bench at Meerut) Act, 1996.

Establishment of a permanent Bench of High Court at Allahabad at Meerut.

2. There shall be established a permanent Bench of the High Court at Allahabad at Meerut and such Judges of the High Court at Allahabad, being not less than three in number, as the Chief Justice of that High Court may from time to time nominate, shall sit at Meerut in order to exercise the jurisdiction and power for the time being vested in that High Court in respect of cases arising in the districts of Mathura, Agra, Aligarh, Firozabad, Pauri, Tehri, Nainital, Almora, Dehradun, Haridwar, Muzaffarnagar, Meerut, Ghaziabad, Bulandshahr, Bijnore and Moradabad.

STATEMENT OF OBJECTS AND REASONS

There has been a persistent demand for setting up of a permanent Bench of the High Court at Allahabad in western Uttar Pradesh. More than 1,00,000 cases have been pending in Allahabad High Court for quite a long time.

Meerut city is a prominent central place in western Uttar Pradesh where modern communication and transport facilities are available. At present, the people belonging to the districts of western Uttar Pradesh have to travel to Allahabad in connection with their cases. It is a time consuming and costly affair. In the interest of cheap and speedy justice and convenience of the litigant public, it is necessary to establish a permanent Bench of the High Court at Allahabad at Meerut.

The Jaswant Singh Commission, appointed to go into issues regarding establishment of Benches at various High Courts, had recommended that a Bench of the High Court at Allahabad be established in western Uttar Pradesh.

The Bill seeks to achieve the above objective.

NEW DELHI;
November 13, 1996

AMAR PAL SINGH

BILL NO. 117 OF 1996

THE STATE OF UTTARANCHAL BILL, 1996

By

SHRI MANBENDRA SHAH, M.P.

ARRANGEMENT OF CLAUSES

PART I

PRELIMINARY

CLAUSES

1. Short title.

2. Definitions.

PART II

REORGANISATION OF THE STATE OF UTTAR PRADESH

3. Formation of the State of Uttaranchal.

4. State of Uttar Pradesh and territorial divisions thereof.

5. Amendment of the First Schedule to the Constitution.

PART III

REPRESENTATION IN THE LEGISLATURES

THE COUNCIL OF STATES

6. Amendment of the Fourth Schedule to the Constitution.

7. Allocation of Sitting Members.

8. Filling up of vacancies.

HOUSE OF THE PEOPLE

9. Provisions as to existing House.

THE LEGISLATIVE ASSEMBLIES

10. Provision as to Legislative Assembly.

11. Allocation of sitting members.

12. Duration of Legislative Assembly of the State of Uttaranchal.

DELIMITATION OF CONSTITUENCIES

13. Allocation of seats in the House of People.

14. Allocation of seats in the Legislative Assembly.

PART IV

HIGH COURT

CLAUSES

15. High Court for Uttaranchal.

16. Number of Judges in the High Court.

17. Jurisdiction of the High Court.

18. Practice and Procedure in the High Court.

19. Form of writs and other processes.

20. Powers of Judges.

21. Principal seat and other places of sitting of the High Court.

22. Transfer of pending proceedings.

PART V

AUTHORISATION OF EXPENDITURE OF AND DISTRIBUTION OF REVENUES

23. Distribution of Revenues.

24. Authorisation of Expenditure of the State of Uttaranchal.

PART VI

APPORTIONMENT OF ASSETS AND LIABILITIES

25. Application of Part.

26. Land and goods.

27. Treasury and bank balances.

28. Arrears of Taxes.

PART VII

29. Provisions relating to All India Services.

30. Provisions relating to other services.

PART VIII

LEGAL AND MISCELLANEOUS PROVISIONS

31. Power to adopt laws.

32. Power to construe laws.

33. Power to name authorities etc. for exercising statutory functions.

34. Legal proceedings.

35. Transfer of pending proceedings.

36. Power to make rules.

BILL NO. 117 OF 1996

A Bill to provide for the establishment of the State of Uttaranchal by reorganisation of the existing State of Uttar Pradesh and for matters connected therewith.

BE it enacted by Parliament in the Forty-seventh Year of the Republic of India as follows:—

PART I

PRELIMINARY

1. This Act may be called the State of Uttaranchal Act, 1996. **Short title.**

2. In this Act, unless the context otherwise requires— **Definitions.**

(*a*) "appointed day" means the day which the Central Government may, by notification in the Official Gazette, appoint;

(*b*) "article" means the article of the Constitution;

(*c*) "assembly constituency", "council constituency" and "parliamentary constituency" have the same meanings as in the Representation of People Act, 1950; 43 of 1950.

(*d*) "existing State of Uttar Pradesh" means the State of Uttar Pradesh as existing immediately before the appointed day;

(*e*) "High Court" means the High Court of Judicature set up in terms of section 15 of this Act;

(*f*) "law" includes any enactment, ordinance, regulation, order, bye-law, rule, scheme, notification or other instrument having immediately before the appointed day, the force of law in the whole or in any part of the existing State of Uttar Pradesh;

(*g*) "notified order" means an order published in the Official Gazette;

(*h*) "prescribed" means prescribed by rules made under this Act;

(*i*) "sitting member", in relation to either House of Parliament or of the Legislature of the existing State of Uttar Pradesh, means a person who immediately before the appointed day is a member of that House;

(*j*) "State of Uttar Pradesh" means the State with the same name, comprising territories referred to in section 4;

(*k*) "successor State", in relation to the existing State of Uttar Pradesh, means the State of Uttar Pradesh or Uttaranchal;

(*l*) "treasury" includes a sub-treasury; and

(*m*) any reference to a district, tehsil, or other territorial division of the existing State of Uttar Pradesh shall be construed as a reference to the area comprised within that territorial division on the first day of January, 1996.

PART II

REORGANISATION OF THE STATE OF UTTAR PRADESH

Formation of the State of Uttaranchal.

3. On and from the appointed day, there shall be formed a new State to be known as the State of Uttaranchal comprising the following territories of the existing State of Uttar Pradesh, namely:—

"Almora, Nainital, Pauri Garhwal, Tehri, Dehra Dun, Uttar Kashi, Chamoli and Pithoragarh districts and the Kumbha Mela Area, Jwalapur, Kankhal, BHEL (area between BHEL and Mohand Hills), Mohand Hills proper, and area between Haridwar and Bhadrabad (including Bhadrabad) and Najibabad Tehsil falling in Haridwar, Saharanpur and Bijnore districts."

State of Uttar Pradesh and territorial divisions thereof.

4. On and from the appointed day, the State of Uttar Pradesh shall comprise the territories of the existing State of Uttar Pradesh other than those mentioned in section 3.

Amendment of the First Schedule.

5. On and from the appointed day, in the First Schedule to the Constitution, under the heading "I. The States",—

(*i*) in entry 13, under the heading "Territories" the following shall be added at the end, namely:—

"and excluding the territories specified in section 3 of the State of Uttaranchal Act, 1996"; and

(*ii*) after the entry 25, the following entry shall be inserted, namely:—

"26. Uttaranchal: the territories specified in section 3 of the State of Uttaranchal Act, 1996".

PART III

REPRESENTATION IN THE LEGISLATURES

THE COUNCIL OF STATES

Amendment of the Fourth Schedule to the Constitution.

6. On and from the appointed day, in the Fourth Schedule to the Constitution, in the Table,—

(*a*) entries 15 to 27 shall be re-numbered as entries 16 to 28 respectively;

(*b*) after entry 14, the following entry shall be inserted, namely:—

"15. Uttaranchal.....3"

(*c*) in entry 16 as so re-numbered, for the figures "34", the figures "31" shall be substituted.

Allocation of sitting members.

7. (*1*) On and from the appointed day, the thirty-four sitting members of the Council of States representing State of Uttar Pradesh shall be deemed to have been elected to fill the seats allotted to the States of Uttaranchal and Uttar Pradesh, as specified in the Fourth Schedule.

(*2*) The terms of office of such sitting members shall remain unaltered.

Filling up of vacancies.

8. (*1*) As soon as may be after the appointed day, election shall be held to fill the vacancies existing on the appointed day in the seats allotted to the State of Uttaranchal.

(*2*) The terms of office of such one of the three members so elected, as the Chairman of the Council of States may determine by drawing lot, shall expire on the 2nd day of April, 1997, the term of office of the second member shall expire on the 2nd day of April, 1999, and the term of office of the third member shall expire on the 2nd day of April, 2001.

THE HOUSE OF THE PEOPLE

Provision as to the existing House.

9. Nothing in Part II shall be deemed to affect the constitution or duration of the existing House of the People or the extent of the constituency of any sitting member of that House.

THE LEGISLATIVE ASSEMBLIES

Provision as to Legislative Assembly.

10. (*1*) The number of seats as on the appointed day in the 'Legislative Assembly of the State of Uttaranchal' shall be seventy-five.

43 of 1950.

(*2*) In the Second Schedule to the Representation of People Act, 1950, under the heading I-States,

(*i*) entries 24 and 25 shall be re-numbered as entries 25 and 26, respectively; and

(*ii*) before entry 25 as so re-numbered, the following entry shall be inserted, namely:—

"24. Uttaranchal 75.....

Allocation of sitting members.

11. (*1*) Every sitting member of the Legislative Assembly of Uttar Pradesh elected to fill a seat in the Assembly from a constituency which on the appointed day stands allotted, with or without alteration of boundaries to the State of Uttaranchal, shall, on and from that day, ceases to be a member of the Legislative Assembly of Uttar Pradesh and shall be deemed to have been elected to fill a seat in the Legislative Assembly of Uttaranchal.

(*2*) All other sitting members of the Legislative Assembly of Uttar Pradesh shall continue to be members of Legislative Assembly of the State.

(*3*) Notwithstanding anything contained in any other law for the time being in force, Legislative Assemblies of Uttaranchal and Uttar Pradesh shall be deemed to be duly constituted on the appointed day.

Duration of Legislative Assembly of the State of Uttaranchal.

12. The period of five years referred to in clause (*1*) of article 172 shall, in the case of Legislative Assembly of Uttaranchal be deemed to have commenced on the date on which the Legislative Assembly of Uttar Pradesh actually commenced.

DELIMITATION OF CONSTITUENCIES

Allocation of seats in the House of the People.

13. In the House of the People to be constituted after the commencement of this Act, there shall be allotted five seats to the State of Uttaranchal.

Allocation of seats in the Legislative Assembly.

14. The total number of Seats in the Legislative Assembly of Uttaranchal to be constituted at any time after the appointed day, to be filled by persons chosen by direct elections from territorial constituencies, shall be seventy-five of which eight and one seat shall be reserved for Scheduled Castes and Scheduled Tribes, respectively.

PART IV

HIGH COURT

High Court for Uttaranchal.

15. On and from the appointed day, there shall be established a High Court for the State of Uttaranchal to be called the High Court of Uttaranchal.

Number of Judges.

16. There shall be such number of judges, being not less than five in number, as may be appointed by the President from time to time.

Jurisdiction of the High Court.

17. On and from the appointed day, the High Court shall have, in respect of the territories comprised in the State of Uttaranchal, all such jurisdiction, powers and authority as, under the law in force immediately before the appointed day, are exercisable in respect of those territories by the High Court of Uttar Pradesh.

Practice and Procedure in High Court.

18. The High Court shall adopt such practice and procedure, as it may deem necessary.

Form of writs and other processes.

19. The law in force immediately before the appointed day with respect to the form of writs and other processes used, issued and awarded by the High Court of Uttar Pradesh shall, with necessary notifications, apply with respect to the form of writs and other processes used, issued and awarded by the High Court of Uttaranchal.

Powers of Judges.

20. The law in force immediately before the appointed day with respect to the powers of Chief Justice, single Judges and division courts of the High Court of Uttar Pradesh shall, with necessary modifications, apply with respect to the form of writs and other processes used, issued and awarded by the High Court of Uttaranchal.

Principal seat and other places of sitting of the High Court.

21. (*1*) The principal seat of the High Court shall be at Dehradun.

(*2*) The President may, after consultation with the Chief Justice of the High Court and the Governor of the State of Uttaranchal, by notified order, provide for the establishment of a permanent bench or benches of that High Court at one or more places with the territories to which the jurisdiction of the High Court extends, other than the principal seat of the High Court, and for any matters connected therewith.

(*3*) Notwithstanding anything contained in sub-section (*2*), the judges and division courts of the High Court may also sit at such other places in the State of Uttaranchal as the Chief Justice may, with the approval of the Governor of the State of Uttaranchal, appoint.

Transfer of pending proceedings.

22. All proceedings, where the residents of the State of Uttaranchal are applicants and/or appellants, pending in the High Court of Uttar Pradesh immediately before the appointed day shall, on that day, stand transferred to the High Court of Uttaranchal.

PART V

AUTHORISATION OF EXPENDITURE AND DISTRIBUTION OF REVENUES

Distribution of Revenues.

23. The President shall, by order, determine the grant-in-aid of the revenues of the State of Uttaranchal and the share of that State in the Union duties of excise, estate duty and taxes on income and for that purpose amend thereby the relevant provisions of the Additional Duties of Excise (Goods of Special Importance) Act, 1957, the Union Duties of Excise (Distribution) Act, 1979, the Estate Duty (Distribution) Act, 1962 and the Constitution (Distribution of Revenues) Order, 1985, in such manner as he thinks fit.

58 of 1957.
24 of 1979.
59 of 1962.

Authorisation of expenditure of the State of Uttaranchal.

24. The Governor of the existing State of Uttar Pradesh may, at any time, before the appointed day, authorise such expenditure from the Consolidated Fund of the State of Uttaranchal as he deems necessary for any period not exceeding beyond the 31st day of March, 1997, pending the sanction of such expenditure by the legislative assembly of the State of Uttaranchal:

Provided that the Governor of Uttaranchal may, after the appointed day, authorise such further expenditure from the Consolidated Fund of the State of Uttaranchal as he deems necessary for the said period pending such sanction.

PART VI

APPORTIONMENT OF ASSETS AND LIABILITIES

Application of part.

25. The provisions of this part shall apply in relation to the apportionment of the assets and liabilities of the existing State of Uttar Pradesh immediately before the appointed day.

Land and goods.

26. (*1*) Subject to the other provisions of this Part, all land and all stores, articles and other goods belonging to the existing State of Uttar Pradesh shall,—

(*a*) if within that State, pass to the successor State in whose territories they are situated, or

(*b*) if outside that State, pass to the State of Uttar Pradesh:

Provided that where the Central Government is of the opinion that any goods or class of goods should be distributed between the successor States otherwise than according to the situation of the goods, the Central Government may issue such directions as it thinks fit for a just and equitable distribution of the goods and the goods shall pass to the successor States accordingly.

(*2*) The stores held for specific purposes, such as use of utilisation in particular institutions, workshops or undertakings or on particular works under construction, shall pass to the successor State in whose territories such institutions, workshops, undertakings of works are located.

(*3*) The stores relating to the Secretariat and offices of Heads of Departments having jurisdiction over the whole of the existing State of Uttar Pradesh shall be divided between the successor States in accordance with such directions as the Central Government may think fit to issue for a just and equitable distribution of such stores.

(*4*) Any other unissued stores of any class in the existing State of Uttar Pradesh shall be divided between the successor States in proportion to the total stores of that class purchased in the period of three years ending with the 31st day of March, 1996 the territories of the existing State of Uttar Pradesh included respectively in each of the successor States;

(*5*) In this section the expression "land" includes immovable property of every kind and any rights in or over such property and the expression "goods" does not include coins, bank notes and currency notes.

Treasury and bank balances.

27. The total of the cash balances in all treasuries of the existing State of Uttar Pradesh and the credit balances of that State with the Reserve Bank of India, the State Bank of India or any other bank immediately before the appointed day shall be divided between the successor States according to the population ratio:

Provided that for the purposes of such division there shall be no transfer of cash balances from any treasury to any other treasury and the apportionment shall be effected by adjusting the credit balances of the successor States in the books of the Reserve Bank of India on the appointed day:

Provided further that if any successor State has no account with the Reserve Bank of India, the adjustment shall be made in such a manner as the Central Government may, by order, direct.

Arrears of taxes.

28. The right to recover arrears of any tax or duty on property, including arrears of land revenue shall belong to the successor State in whose territories the place of assessment of that tax or duty is included.

PART VII

PROVISIONS AS TO SERVICES

Provisions relating to All India services.

29. (*1*) In this Section, the expression "State Cadre"—

(*a*) in relation to the Indian Administrative Service, has the meaning assigned to it in the Indian Administrative Service (Cadre) Rules, 1954, and

(*b*) in relation to the Indian Police Service, has the meaning assigned to it in the Indian Police Service (Cadre) Rules, 1954.

(*2*) In place of cadres of the Indian Administrative Service and the Indian Police Service for the existing State of Uttar Pradesh, these shall, on and from the appointed day, be two separate cadres, one for the State of Uttar Pradesh and the other for the State of Uttaranchal, in respect of each of these services.

(*3*) The initial strength and the composition of each of the State cadres for the States of Uttar Pradesh and Uttaranchal shall be such as the Central Government may, by order, determine before the appointed day.

(*4*) The members of each of the said services borne on the State cadre for the existing State of Uttar Pradesh immediately before the appointed day shall be allocated to the State cadres of the same service for each of the States of Uttar Pradesh and Uttaranchal in such manner and with effect from such date or dates as the Central Government may, by order specify.

(*5*) Nothing in this section shall be deemed to affect the operation, on or after the appointed day, of the all India Services Act, 1951 or the rules made thereunder in relation to the State cadres of the said services referred to in sub-section (3) and in relation to the members of these services borne on the said cadres.

Provisions relating to other services.

30. (*1*) Every person who immediately before the appointed day is serving in connection with the affairs of the existing State of Uttar Pradesh shall, on and from that day, provisionally continue to serve in connection with the affairs of the State of Uttar Pradesh unless he is required, by general or special order of the Central Government, to serve provisionally in connection with the affairs of any other successor State.

(*2*) As soon as may be after the appointed day, the Central Government shall, by general or special order, determine the successor State to which every person referred to in

Sub-Section (1) shall be finally allotted for service and the date with effect from which such allotment shall take effect or be deemed to have taken effect.

(*3*) Every person who is finally allotted under the provisions of sub-section (2) to a successor State shall, if he is not already serving therein, be made available for serving the successor State from such date as may be agreed upon between the Governments concerned or in default of such agreement, as may be determined by the Central Government.

(*4*) The Central Government may, by order, establish one or more advisory committees for the purpose of assisting it in regard to—

(*a*) the division and integration of the services among the successor States; and

(*b*) the ensuring of fair and equitable treatment to all persons affected by the provisions of this section and the proper consideration of any representations made by such persons.

(*5*) The foregoing provisions of this section shall not apply in relation to any person to whom the provisions of section 28 apply.

(*6*) Nothing in this section shall be deemed to affect on or after the appointed day, the operation of the provisions of Chapter I of Part XIV of the Constitution in relation to the determination of the conditions of service of persons serving in connection with the affairs of Union or any State:

Provided that the conditions of service applicable immediately before the appointed day in the case of any person referred to in sub-section (1) or sub-section (2) shall not be varied to his disadvantage except with the previous approval of the Central Government.

PART VIII

LEGAL AND MISCELLANEOUS PROVISIONS

Power to adapt Laws.

31. For the purpose of facilitating the application in relation to the State of Uttar Pradesh or the State of Uttaranchal of any law made before the appointed day, the appropriate Government may, before the expiration of two years from that day, by order, make such adaptations and modifications of the law whether by way of repeal or amendment as may be necessary or expedient, and thereupon every such law shall have effect subject to the adaptations and modifications so made until altered, repealed or amended by a competent Legislature or other competent authority.

Explanation:— In this section, the expression "appropriate Government" means—

(*a*) in respect of any law relating to a matter enumerated in the Union List in the seventh Schedule to the Constitution, the Central Government; and

(*b*) in respect of any other law, in its application to a State, the State Government.

Power to construe laws.

32. (*1*) Notwithstanding that no provision or insufficient provision has been made under section 30 for the adaptation of a law made before the appointed day, any court, tribunal or authority required or empowered to enforce such law may, for the purpose of facilitating its application in relation to the State of Uttar Pradesh or the State of Uttaranchal construe the law in such manner, without affecting the substance, as may be necessary or proper in regard to the matter before the court, tribunal or authority, as the case may be.

(*2*) Any reference to the High Court of Uttar Pradesh in any law shall, unless the context otherwise requires, be construed, in and from the appointed day, as a reference to the High Court of Uttaranchal.

Power to name authorities etc. for exercising statutory functions.

33. The Central Government, in respect of the Government of the State of Uttaranchal as regards the territories thereof, may, by notification in the Official Gazette, specify the authority, officer or person who on and from the appointed day, shall be competent to exercise such function exercisable under any law in force on that day as may be mentioned in that notification and such law shall have effect accordingly.

Legal proceedings.

34. Where immediately before the appointed day, the existing State of Uttar Pradesh is a party to any legal proceedings with respect to any property, rights or liabilities subject to apportionment under this Act shall be deemed to be substituted for the existing State of Uttar Pradesh or added as a party to those proceedings and the proceedings may continue accordingly.

Transfer of pending proceeding.

35. (*1*) Every proceeding pending immediately before the appointed day before a court (other than a High Court), tribunal authority or officer in any area which on that day falls within a successor State shall, if it is a proceeding relating exclusively to the territories which as from that day are the territories of another successor State stand transferred to the corresponding court, tribunal, authority or officer in that other State as the case may be.

(*2*) If any question arises as to whether any proceedings should stand transferred under sub-section (*1*), it shall be referred to the High Court, having jurisdiction in respect of the area in which the court, tribunal, authority or officer before which or whom such proceedings are pending on the appointed day, is functioning and the decision of the High Court shall be final.

(*3*) In this section:—

(*a*) "proceeding" includes any suit, case or appeal, and

(*b*) "corresponding court, tribunal, authority or officer" in a State means—

(*i*) the court, tribunal, authority or officer in that State in which or before whom, the proceeding would have lain if it had been instituted after the appointed day; or

(*ii*) in case of doubt, such court, tribunal, authority or officer in that State, as may be determined after the appointed day by the government of the existing State of Uttar Pradesh, to be the corresponding court, tribunal, authority or officer.

Power to make rules.

36. (*1*) The Central Government may, by notification in the Official Gazette, make rules to give effect to the provisions of this Act.

(*2*) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions and if, before the expiry of the session immediately following the session or the sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

The people of Uttaranchal (eight hill districts of Uttar Pradesh and Kumbha Mela area of Haridwar district) have made significant contribution in the freedom struggle of India. The specific social and economic problems of the people of this region require special treatment in democratic and independent India. The problems of the people of this region have been accumulating and the people continue to suffer.

The people of this region are not getting justice properly because the present administration is not acquainted with the unique problems faced by the people. However, the people of hilly regions have to travel a long distance to sort out their problems.

The creation of separate States, such as Himachal Pradesh, Nagaland, Arunachal Pradesh and others in Northern and Eastern India, which were similarly situated, and where population is even less than those of the eight hill districts and Kumbha Mela area of Haridwar district of Uttar Pradesh, proves that such administrative changes are successful in achieving sustained growth and development of the concerned areas.

The two successive Assemblies of Uttar Pradesh also felt this need and hence unequivocally recommended creation of a separate State consisting of the area covered in this Bill.

The formation of a separate hill State of Uttaranchal is essential to ensure a balanced development of this region in all its dimensions so that the rich intellectual potential of the people of this region and even richer material resources available with unique advantage of environment are duly exploited by an appropriate democratic set-up to unleash the creative energies of the people of Uttaranchal. It is, therefore, proposed to provide for the establishment of the State of Uttaranchal with its legislature, executive and the Judiciary like other Indian States in accordance with the Constitution of India.

Hence this Bill.

NEW DELHI;
July 2, 1996.

MANBENDRA SHAH

PRESIDENT'S RECOMMENDATION UNDER ARTICLES 3, 117 AND 274 OF THE CONSTITUTION OF INDIA

[Copy of letter No. 16017/4/96-SR, dated 13 November, 1996 from Shri Indrajit Gupta, Minister of Home Affairs to the Secretary-General, Lok Sabha.]

The President, having been informed of the subject matter of the State of Uttaranchal Bill, 1996 by Shri Manbendra Shah, M.P., has accorded his recommendation under articles 3, 117(1) and 274 (1) for introduction and under article 117(3) of the Constitution for consideration of the Bill in Lok Sabha.

FINANCIAL MEMORANDUM

As new judges are to be appointed for the High Court of Uttaranchal (clause 16), their pension is a charged expenditure on the Consolidated Fund of India. However, at present it cannot be estimated the amount which will be involved and from when.

As a State, Uttaranchal will be entitled to a share in the income tax and additional excise duty of the Central Government. There will be some revenue receipts from the areas now covered under the new State of Uttaranchal. However, there may be a gap between the revenue receipts and expenditure. The Central Government will have to provide such quantum of grants-in-aid to the new State as may be necessary by suitably amending the provisions of the Constitution (Distribution of Revenue) Order 1985, in exercise of the powers given by clause 23 of the Bill. No exact estimate can be given about the amount likely to be given to the State as grants-in-aid but it is estimated that it may involve expenditure to the tune of rupees two hundred crore.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 23 of the Bill empowers the President to determine by order the grant-in-aid to the new State and its share Central taxes and amend for that purpose of relevant provisions of the Additional Duties of Excise (Goods of Special Importance) Act, 1957, the Union Duties of Excise (Distribution) Act, 1979, the Estate Duty (Distribution) Act, 1962, and the Constitution (Distribution of Revenue) Order, 1985.

Clause 36 of the Bill empowers the Central Government to make rules to give effect to the provisions of the Bill. The rules if any will be confined to matters of procedure and other matters of minor detail relating to the enforcement of the various provisions included in the Bill.

The rules to made will relate matters of detail only and as such the delegation of legislative power is of a normal character.

BILL NO. 126 OF 1996.

A Bill to provide for measures to control population in the country and for matters connected therewith.

BE it enacted by Parliament in the Forty-seventh year of the Republic of India as follows:

Short title, extent and commencement.

1. (*1*) This Act may be called the Population Control Act, 1996.

(*2*) It extends to the whole of India.

(*3*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(*a*) "child" includes an illegitimate child but does not include an adopted child;

(b) "custom" means any usage which has been continuously and uniformly being observed for a long time by the people and which has now acquired the force of law amongst any community in any area, tribe, group or family;

(c) "financial institution" means any banking or finance lending company, corporation, firm or society in which the Central Government holds not less than fifty-one per cent. of shares;

(d) "Government company" means any company, corporation or society in which the Central Government holds not less than fifty-one per cent. of shares; and

(e) "Government service" means any public service in connection with the affairs of the Central Government and includes service in any civil, defence or all India service of the Union or service in any Government company or local bodies in Union territories.

Small Family norm.

3. Any person —

(a) who has two or more than two living children shall not procreate any more child after a period of one year from the date of commencement of this Act;

(b) who has less than two living children on the date of commencement of this Act, shall not procreate more than two living children.

Insertion of new section 8B in Act No. 43 of 1951.

4. After section 8A of the Representation of the People Act, 1951, the following section shall be inserted, namely:—

Disqualification on ground of not following small family norm.

"8B. (*1*) A person shall be disqualified if he procreates more than two living children:

Provided that the person shall not be disqualified if he, within a period of one year from the date of commencement of the Population Control Act, 1996, procreates another living child and thereby the number of living children of that person increases to more than two.

(*2*) The disqualification referred to in sub-section (1) shall not apply in case of persons having more than two living children on the date of commencement of the Population Control Act, 1996."

Punishment to Government employees.

5. Any person who is in Government service, if violates the provisions of section 3, he shall not be given any further increment or promotion during his service.

Punishment to individuals.

6. Any person who is running his own company, firm, society or corporation, if violates the provisions of section 3, then—

(*a*) he shall not be allowed to avail of any loan or facility of any kind from any Government company or financial institution;

(*b*) he shall not be entitled to undertake any contract with any financial institution, Government company or the Central Government; and

(*c*) he shall not be entitled to have facilities of drawing ration from public distribution system and cooking gas from a Government company.

Incentive for small family.

7. (*1*) **Any person who procreates only one child and gives an undertaking that he shall not procreate another child, he shall be—**

(*a*) **given preference in Government services;**

(*b*) **Provided with a house by the Central Government at subsidised cost; and**

(*c*) **given ration items from fair price shops at a reduced price.**

(*2*) Any person, who has been given benefit under sub-section (1), if procreates another child, the benefits given to him shall be withdrawn immediately.

8. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force. Act to have over riding effect.

9. The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act. Power to make rules.

STATEMENT OF OBJECTS AND REASONS

Exploding population of the country is one of the major hurdles in the progress of the country. If we can check the increase in population then we can expect to give reasonable standard of living to the people of the country.

Some strong measures are required to check this menace. Some benefits should also be given to the people to encourage them to adopt small family norm

The Bill provides for some harsh measures for those who do not come forward to help in achieving the goal of population control. Alongside, some benefits are provided to those who adopt the small family norm.

Hence this Bill.

NEW DELHI;
November 14, 1996

BACHI SINGH RAWAT

FINANCIAL MEMORANDUM

Clause 7 of the Bill provides that any person who procreates only one child and gives an undertaking that he shall not procreate another child shall be provided with accommodation at subsidised cost and ration items from fair price shops at reduced price by the Central Government. The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India. It is likely to involve a recurring expenditure of about rupees one hundred crore per annum.

No non-recurring expenditure is likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 9 of the Bill empowers the Central Government to make rules for carrying out the provisions of the Bill. As the rules to be made relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 125 OF 1996

A Bill to provide for uniform marriage and divorce law for all citizens of the country.

BE it enacted by Parliament in the Forty-seventh Year of the Republic of India as follows :—

Short title, extent and commencement.

1. (*1*) This Act may be called the Uniform Marriage and Divorce Act, 1996.

(*2*) It extends to the whole of India except the State of Jammu and Kashmir.

(*3*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(*a*) the expressions "custom" and "usage" signify any rule that is being continuously and uniformly observed for a long time and has obtained the force of law, among any community in any local area, tribe, community, group or family; and

(*b*) "District Court" means, in an area for which there is a city civil court, that court and in any other area the principal court of original jurisdiction, and includes any other civil court which may be specified by the State Government, by notification in the Official Gazette, as having jurisdiction in respect of the matters dealt with in this Act.

Over-riding effect of the Act.

3. (*1*) Save as otherwise expressly provided in this Act;

(*a*) any text, rule or interpretation of any law or any custom or usage in force immediately before the commencement of this Act shall cease to have effect with respect to any matter for which provision is made in this Act; and

(*b*) any other law in force immediately before the commencement of this Act shall cease to apply in so far as it is inconsistent with any of the provisions contained in this Act.

Conditions for valid marriage.

4. After the commencement of this Act, a marriage may only be solemnised between the two persons if the following conditions are fulfilled—

(*i*) the marriage is valid under any other law applicable to the parties;

(*ii*) neither party has a spouse living at the time of marriage;

(*iii*) the bridegroom has completed the age of twenty-one years and the bride the age of eighteen years at the time of the marriage; and

(*iv*) at the time of the marriage neither party—

(*a*) is incapable of giving a valid consent to it in consequence of unsoundness of mind; or

(*b*) though capable of giving valid consent, has been suffering from mental disorder of such a kind or to such an extent as to be unfit for marriage and procreation of children; or

(*c*) has been subject to recurrent attacks of insanity or epilepsy.

Legitimacy of children.

5. Notwithstanding that a marriage is null and void under this Act any child born of such marriage who would have been legitimate if the marriage had been valid, shall be legitimate, whether such child is born before or after the commencement of this Act and whether or not a decree of nullity is granted in respect of that marriage under this Act and whether or not the marriage is held to be void otherwise than a petition under this Act.

Void marriages.

6. (*1*) Any marriage solemnised after the commencement of this Act shall be null and void and may, on a petition presented by either party thereto against the other party, be so declared by a decree of nullity if it contravenes condition specified in clause (ii) of section 4.

Divorce.

7. (*1*) Any marriage solemnised, whether before or after the commencement of this Act may be dissolved only by a decree of divorce granted by a court of the competent jurisdiction.

(*2*) No court will dissolve any marriage by a decree of divorce unless and until a party presenting the petition for divorce is entitled to divorce under the law applicable to the parties or the court has reasons to believe that the marriage has broken down and cannot be reconciled.

Explanation.—It is hereby declared that the provisions of this section will not affect any divorce before the commencement of this Act.

Divorce by mutual consent.

8. (*1*) Subject to the provisions of this Act, a petition for dissolution of marriage by a decree of divorce may be presented to the district court by both the parties to a marriage together, whether such marriage was solemnized before or after the commencement of this Act, on the ground that they have been living separately for a period of one year or more, that they have not been able to live together and that they have mutually agreed that the marriage should be dissolved.

(*2*) On the motion of both the parties made not earlier than six months after the date of the presentation of the petition referred to in sub-section (*1*) and not later than eighteen months after the said date, if the petition is not withdrawn in the meantime, the court shall, on being satisfied, after hearing the parties and after making such inquiry as it thinks fit, that a marriage has been solemnised and that the averments in the petition are true, pass a decree of divorce declaring the marriage to be dissolved with effect from the date of the decree.

Court to which petition shall be presented.

9. Every petition under this Act shall be presented to the district court within the local limits of whose ordinary original civil jurisdiction—

(*i*) the marriage was solemnised, or

(*ii*) the respondent, at the time of the presentation of the petition, resides, or

(*iii*) the parties to the marriage last resided together, or

(*iv*) the petitioner is residing at the time of the presentation of the petition, in case where the respondent is, at that time, residing outside the territories to which this Act extends, or has not been heard of as being alive for a period of seven years or more by those persons who would naturally have heard of him if he were alive.

Maintenance pendente lite and expenses of proceedings.

10. Notwithstanding anything contained in any other law, custom or usage, where in any proceeding under this Act it appears to the court that either the wife or the husband, as the case may be, has no independent income sufficient for her or his support and the necessary expenses of the proceedings, it may on the application of the wife or the husband, order the respondent to pay to the petitioner the expenses of the proceeding, and monthly, during the proceeding such sum as, having regard to the petitioners own income and the income of the respondent, it may seem to the court to be reasonable.

Permanent alimony and maintenance.

11. Notwithstanding any thing contained in any other law, custom or usage, any court exercising jurisdiction under this Act may, at the time of passing any decree or at any time subsequent thereto, on application made to it for the purpose by either the wife or the husband, as the case may be, order that the respondent shall pay to the applicant for her or his maintenance and support such gross sum or such monthly or periodical sum for a term not exceeding the life of the applicant as, having regard to the respondent's own income and other property, if any, the income and other property of the applicant, the conduct of the parties, *Mehar* if any, between the parties and other circumstances of the case, it may seem to the court to be just and any such payment may be secured, if necessary, by a charge on the immovable property of the respondent.

Custody of children.

12. Notwithstanding anything contained in any other law, custom or usage, in any proceeding under this Act, the court may, from time to time, pass such interim orders and, make such provisions in the decree as it may deem just and proper with respect to the custody, maintenance and education of minor children, their welfare, consistently with their wishes, wherever possible, and may, after the decree, upon application by petition for the purpose, make from time to time, all such orders and provisions with respect to the custody, maintenance and education of such children as might have been made by such decree or interim orders in case the proceeding for obtaining such decree was still pending, and the court may, also from time to time, revoke, suspend or vary any such orders and provisions previously made.

Disposal of property.

13. Notwithstanding anything contained in any law, custom or usage, the court may in any proceeding under this Act make such provisions in the decree as it deems just and proper with respect to any property possessed, at or about the time of marriage, which may belong jointly to both the husband and the wife.

Appeal from decrees and orders.

14. All decrees made by the court in any proceeding under this Act shall be appealable as decrees of the court made in the exercise of its original civil jurisdiction, and every such appeal shall lie to the court to which appeals ordinarily lie from the decisions of the court given in the exercise of its original civil jurisdiction.

Documentary evidence.

15. Notwithstanding anything in any enactment to the contrary, no document shall be inadmissible in any proceeding at the trial of a petition under this Act on the ground that it is not duly stamped or registered.

Proceedings to be in camera and may not be printed or published.

16. (*1*) Every proceeding under this Act shall be conducted in camera and it shall not be lawful for any person to print or publish any matter in relation to any such proceeding except a judgement of the High Court or of Supreme Court printed or published with the previous permission of the Court.

(*2*) If any person prints or publishes any matter in contravention of the provisions contained in sub-section (*1*), he shall be punishable with fine which may extend to one thousand rupees.

Special provision relating to trial and disposal of petitions under the Act.

17. The trial of a petition under this Act shall, as far as is practicable consistently with the interest of justice in respect of the trial be continued from day to day until its conclusion unless the court finds the adjournment of the trial beyond the following day to be necessary for reasons to be recorded.

(2) Every petition under this Act shall be made to conclude the trial within six months from the date of service of notice of the petition on the respondent.

(*3*) Every appeal under this Act shall be heard as expeditiously as possible, and endeavour shall be made to conclude the hearing within three months from the date of service of notice of appeal on the respondent.

Enforcement of decrees and orders.

18. All decrees and orders made by the court in any proceeding under this Act shall be enforced in the like manner as the decrees and orders of the court made in the exercise of its original civil jurisdiction for the time being are enforced.

Punishment for contravention of certain conditions of marriage.

19. (*1*) Any marriage solemnized after the commencement of this Act is void if at the date of such marriage either party had a husband or wife living and the provisions of sections 494 and 495 of the Indian Penal Code shall apply accordingly. 45 of 1860.

(*2*) Every person who procures a marriage of himself or herself to be solemnized under this Act in contravention of the conditions specified in clause (iii) of section 4 shall be punishable with simple imprisonment which may extend to fifteen-days or one thousand rupees or with both.

STATEMENT OF OBJECTS AND REASONS

Article 44 of the Constitution states that the State shall endeavour to secure for the citizens uniform civil code throughout the country. The present Bill is a step in that direction It seeks to prohibit polygamy and permits the courts to grant maintenance and decide about the custody of children and disposal of the property for benefit of women and children. The Bill does not take away rights of the parties to obtain divorce on the grounds available under personal laws but makes it mandatory to obtain it through intervention of the court. It also permits the divorce on mutual consent where the marriage has broken down and cannot be reconciled.

The Bill seeks to achieve the above objective.

NEW DELHI;
November 14, 1996.

BACHI SINGH RAWAT

BILL NO. 120 OF 1996

A Bill further to amend the Hindu Marriage Act, 1955.

BE it enacted by Parliament in the Forty-seventh Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Hindu Marriage (Amendment) Act, 1996.

Amendment of section 5.

25 of 1955

2. In section 5 of the Hindu Marriage Act, 1955 (hereinafter referred to as the Principal Act), in clause (*ii*), in sub-clause (*c*), the words "or epilepsy" shall be omitted.

Amendment of section 13.

3. In section 13 of the Principal Act, in sub-section (*1*), clause (*iv*) shall be omitted.

Amendment of section 23.

4. In section 23 of the principal Act, in sub-section (*2*), in the proviso, the word, brackets and figures "clause (*iv*)" shall be omitted.

STATEMENT OF OBJECTS AND REASONS

Section 5 (ii) (c) of the Hindu Marriage Act, 1955, provides that at the time of marriage, neither party should be subject to recurrent attacks of epilepsy. Epilepsy is curable and should no more be a condition of marriage and needs to be deleted.

Section 13 of the Hindu Marriage Act, 1955 provides that a marriage can be dissolved by a decree of divorce on the ground that one of the party is suffering from a virulent and incurable form of leprosy.

By latest research, scientists have proved that nothing is impossible in this world and modern science can cure epilepsy and leprosy patients. The epilepsy and leprosy patients can not only be cured but can lead a normal happy married life also. The provisions in sections 5 and 13, however, are clogs in the improvement of lot of epilepsy and leprosy victims.

The Bill, therefore, seeks to delete the provisions which provide for the dissolution of marriage on the ground that one of the party to the marriage is suffering from a virulent and incurable form of leprosy or one of the party to marriage was suffering from epilepsy at the time of marriage.

Hence this Bill.

NEW DELHI;
November 19, 1996.

M. JAGANNATH

BILL NO. 121 OF 1996

A Bill further to amend the Forest (Conservation) Act, 1980.

BE it enacted by Parliament in the Forty-seventh Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Forest (Conservation) Amendment Act, 1996.

69 of 1980

Amendment of section 2.

2. In section 2 of the Forest (Conservation) Act, 1980 (hereinafter referred to as the principal Act), after clause (iv), the following provisos shall be inserted, namely:—

"Provided that the Central Government shall not withhold its approval for deforestation if the forest land to be acquired is for public development works such as construction of roads, drinking water schemes, laying of telegraph or telephone lines, electricity lines or any other development scheme for the benefit of the general public:

Provided further that the approval of the Central Government shall not be required if the forest land to be acquired for the purposes as provided in the first proviso is ninety hectares or less."

Insertion of new section 3-C.

3. After section 3B of the principal Act, the following section shall be inserted, namely:—

Approval of schemes by Central Government within a specified period.

"3C. The schemes approved by the State Governments and sent to the Central Government for approval shall be disposed of by the Central Government within one month of their receipt."

Amendment of section 4.

4. In section 4 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) The Central Government may, by notification in the Official Gazette, in consultation with the State Governments, make rules for carrying out the provisions of this Act.".

STATEMENT OF OBJECTS AND REASONS

The Forest (Conservation) Act, 1980 provides that any forest land or any portion thereof may be used for any non-forest purpose provided it has the approval of the Central Government. As per the provisions of the Act, the developmental activities in the rural areas, especially in hilly areas, have come to a standstill. No new roads, water canals, etc. are being constructed after 1980-81. There is great resentment among the people regarding this Central law. Therefore, the amendment of the Act is necessary in order to accelerate the progress of the country.

NEW DELHI;
November 20, 1996

BACHI SINGH RAWAT

S. GOPALAN,
Secretary-General.

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